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MAY 15 1996

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

PETER E. JOLLY,

Petitioner,

vs.

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF KENTUCKY, OWENSBORO DIVISION

Respondent,

THE UNITED STATES OF AMERICA,
ENVIRONMENTAL PROTECTION AGENCY,
REGION IV WATER MANAGEMENT DIVISION

Real Parties In Interest.

From the United States Of America
Hearing Board of the Environmental Protection Agency
Case No. 4-UICC-029-89
District Case No. 4:95CV-169-R

PETITION FOR WRIT OF MANDAMUS COMPELLING REVOCATION OF
ADMINISTRATIVE ORDER, DECLARATORY JUDGMENT
AND FOR INJUNCTION

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INTRODUCTION

This Petition for Mandamus is brought by Peter E. Jolly (hereinafter referred to as "Petitioner") who is a defendant in an action to enforce an administrative order by Real Party in Interest the Environmental Protection Agency of the United States of America (hereinafter "Plaintiff"). This Petition raises new and important questions of law regarding interpretation and application of Section 1423(b)(1) of the Safe Drinking Water Act (hereafter "SDWA"), 42 U.S.C. Section 300h-2(b) (reproduced at Appendix 1). This statute governs the public drinking systems of the United States. Under Section 1423(b)(1) of SDWA, 42 U.S.C. Section 300h-2(b), the Plaintiff may seek to impose administrative orders for violations of said Act only if one or more statutory grounds enumerated in that section are satisfied.

In this case, the Real Party in Interest erroneously made an administrative order on the grounds that Petitioner had violated Section 1423(b)(1) of SDWA, 42 U.S.C. Section 300h-2(b) and was held to have endangered drinking water sources. Said sources are located in Easton Field, Hancock County, Commonwealth of Kentucky and are adjacent to subject mineral leases which overlie a shallow water aquifer which have been erroneously held as having total dissolved solids less than 10,000 mg/1 and which allegedly are currently being used for human consumption. The EPA has erroneously made the determination that this formation is an underground source of drinking water as defined by 40 C.F.R. Section 144.3 and is alleged to be the only source of drinking water in the immediate area. The administrative agency issued an administrative order to address alleged violations of the SDWA and the UIC regulations promulgated thereunder.

As set forth herein, the administrative agency's order and excessive bonding order are clearly erroneous because they do not comply with the limited jurisdiction set forth under Section 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b) and do not endanger drinking water sources. The Petitioner's only remedy to correct this

1 administrative agency's error is by this Petition for Mandamus pursuant to 28 U.S.C.
2 Section 1651. Since the standards adopted by the United States District Court for the
3 Western District of Kentucky for granting mandamus are satisfied, the Administrative
4 Hearing Board of the EPA should be ordered to vacate its administrative order and
5 excise its excessive bonding requirement.

6 STATEMENT OF FACTS

7 The Agency originally issued its administrative order ("AO") on January 9, 1992
8 within the jurisdiction of its hearing board to address alleged violations of the SDWA
9 and the promulgated UIC regulations thereunder. Peter Jolly requested a hearing
10 during the public comment period and requested an appeal by way of letter dated
11 February 5, 1992 and directed to the hearing officer (copy attached hereto as
12 Appendix 2)

13 Based on his defense of the alleged noncompliance described in the AO and
14 Plaintiff's erroneous assertion of its federal claims, Petitioner attempted to settle this
15 matter in good faith and in substantial compliance with the original proposed order
16 until further investigation on his part revealed that JAF Oil Company ("JAF") was not
17 subject to the jurisdiction of the SDWA as defined within the act itself. Moreover,
18 Petitioner's investigation of relevant law found that the bonding requirement that the
19 EPA imposed with a proper public comment period to be unreasonable and in excess
20 of its jurisdiction pursuant to the subject SDWA. Petitioner previously attempted to
21 submit key evidence and materials to show cause as to why the federal claims should
22 not be prosecuted against either himself or JAF. Said evidence and materials were
23 refused consideration by the officer(s) of the administrative hearing board.

24 On or about September 1, 1995, Plaintiff filed suit in this Honorable District
25 Court seeking to enforce its AO and hold Petitioner financially responsible for any
26 liabilities JAF has allegedly incurred. (copy of complaint attached hereto as Appendix
27 3)

1 On or about May 13, 1996, Petitioner filed his answer to the Agency's complaint
2 to enforce its AO and for money damages from Petitioner (copy without exhibits
3 attached hereto as Appendix 4). Petitioner argues within his answer that JAF's
4 mineral leases do not fall within the jurisdiction of the SDWA applied in this case and
5 as this is true, the EPA could not have reasonably exercised its jurisdiction over JAF's
6 mineral leases pursuant to the SDWA. Therefore, the AO should not be enforced and
7 Petitioner should not be required to provide the excessive bonding amount set forth in
8 the AO and no penalties should attach to Petitioner for failure to comply with the
9 SDWA because JAF's mineral leases are not subject to the parameters of the SDWA.

10 **STATEMENT OF RELIEF SOUGHT AND ISSUES PRESENTED**

11 Petitioner seeks an order directing the EPA to vacate its AO for the alleged
12 violations of the SDWA as Petitioner is not subject to the jurisdiction and limitations of
13 this act as set forth above. The issues presented herein include:

14 (1) Did the Agency declination of a public comment period following the
15 imposition of the AO and its excessive bonding requirement and failure to
16 allow the submission of key evidence and materials indicative of the history and
17 hydrological record of the use of the subject aquifer violate Petitioner's due
18 process rights?

19 (2) Does Section 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b) give
20 the EPA jurisdiction over JAF's mineral leases even though these leases are
21 adjacent to an aquifer which does not fall within the defined confines of the
22 SDWA as shown by the historical hydrological record of subject aquifer?

23 (3) Does the EPA have the ability to preclude a meaningful public comment
24 period prior to increasing a bonding requirement by threefold and not allowing
25 rebuttal regarding said imposition?

26 **ARGUMENT**

27 Standards for issuing a writ of mandamus pursuant to 28 U.S.C. Section 1651
28 were established in the seminal case of Bauman v. United States District Court, 557

1 F.2d 650 (9th Cir. 1977) Drawing on the numerous body of judicial decisions dealing
2 with mandamus, the Court identified five factors to be considered:

3 (1) Does the party seeking mandamus have other adequate means, such as
4 direct appeal, to attain the relief desired?

5 (2) Will the Petitioner be damaged or prejudiced in a way not correctable on
6 appeal?

7 (3) Is the administrative order clearly erroneous as a matter of law?

8 (4) Does the agency's administrative order manifest an oft-repeated error or a
9 persistent disregard of federal rules? and

10 (5) Does the agency's order raise new or important problems or issues of law
11 of first impression?

12 Bauman, 557 F.2d at 654-55

13 Not all five factors need be satisfied to justify the issuance of mandamus.

14 Rather, as stated by the court in Bauman, "(t)he considerations are cumulative and
15 proper disposition will often require a balancing of conflicting indicators." Id., at 655. In
16 this case, all five of the Bauman factors militate in favor of granting Petitioner's request
17 for mandamus.

18 In the present case, Petitioner has no other adequate or efficient means to
19 attain swift judicial review of the underlying prejudicial erroneous administrative order.
20 If such relief is not had, Petitioner will be damaged or prejudiced by the financial ruin
21 of JAF. This is particularly unjust in that Petitioner's mineral leases are not under the
22 jurisdiction of the SDWA pursuant to its own elaborated parameters. This lack of
23 jurisdiction is amply demonstrated by a cursory review of the SDWA and the
24 Hydrological Record of the usage of the subject Easton Field Aquifer reputedly being
25 contaminated by Petitioner's Class II injection wells. (copy of the hydrological record
26 is attached hereto as Appendix 5)

27 ///

28 ///

1 **I. THE ADMINISTRATIVE AGENCY'S ORDER IS NOT CORRECTABLE**
2 **ON APPEAL**

3 Petitioner has exhausted all of his effective administrative remedies in regard to
4 vacating or otherwise contesting the herein AO. Petitioner submitted his request for
5 appeal of same by way of a letter requesting a further hearing regarding the alleged
6 violations and was rebuffed because the administrative hearing officer(s) held that
7 said request had not been submitted in an appropriate format. Upon the denial of
8 Petitioner's request for a further hearing of his matter, the administrative agency held
9 the AO to be finalized.

10 Moreover, final EPA action may be reviewed in the United States District Courts
11 under general federal question jurisdiction.

12 In this case, the EPA's administrative compliance order does not indicate any
13 clear basis for its rendered decision, and Petitioner can only speculate as to the
14 agency's reasons for declining hearing of an appeal of its decision. The AO instead
15 contains sweeping generalizations of public endangerment and states that it is based
16 on violations of the SDWA. However, since JAF's mineral leases do not fall within the
17 defined parameters of the SDWA and therefore, JAF cannot be in violation of said act.
18 In any event, without stating clear and evident grounds for the EPA's AO, the AO
19 cannot be found to resolve a matter of substantive law. Accordingly, the AO is no
20 longer reviewable on appeal, but only by mandamus.

21 **II. APART FROM MANDAMUS, PETITIONER HAS NO OTHER DIRECT**
22 **MEANS TO VACATE THE ADMINISTRATIVE COMPLIANCE ORDER.**

23 As set forth above, the Administrative Order is not reviewable on appeal.
24 Moreover, even if it were, it would not be appealable directly to the Court at this time,
25 because it constitutes an interlocutory order. 29 U.S.C. Section 1291 gives parties the
26 right to appeal from final decisions of administrative agencies. The agency's
27 administrative order in this case is in a sense a final decision, however, Petitioner's
28 request for the hearing of an appeal regarding the AO was denied by the hearing

1 officer(s) of the EPA. Moreover, the EPA must, as it is now doing, seek enforcement
2 of its AO through the District Court. Therefore, though the AO is determinative and
3 final in that sense, the AO remains an interlocutory order.

4 Pursuant to 28 U.S.C. Section 1292(b), an interlocutory order (except in certain
5 cases not applicable here) is not directly appealable unless the administrative law
6 judge issuing the order certifies the order for immediate appeal. No such certification
7 accompanied the AO in this case. And, as described above, request for appeal has
8 been declined by the hearing officer(s) in this matter.

9 **III. THE ADMINISTRATIVE ORDER IS CLEARLY ERRONEOUS**
10 **AS A MATTER OF LAW.**

11 Whether the Agency's AO is erroneous as a matter of law depends on whether
12 Petitioner Injection well sites are subject to the jurisdiction of the SDWA as set forth in
13 Section 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b). As a threshold matter,
14 determination of this question begins with Section 14223(b)(1), which sets forth the
15 basis for the existence of jurisdiction in the first place.

16 **A. THE AGENCY LACKED JURISDICTION OVER ITS FEDERAL CLAIMS.**

17 Section 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b) provides limited
18 original jurisdiction regarding the endangerment of drinking water sources which
19 supply the public water system and either currently supplies drinking water for human
20 consumption; or contains fewer than 10,000 mg/l total dissolved solids. The historical
21 and hydrological records regarding the subject aquifer attached as Appendix 5 hereto
22 clearly evidence that JAF's Class II injection wells on its mineral leases in Easton
23 Field, Hancock County, Commonwealth of Kentucky are not adjacent to any aquifer
24 falling within the defined parameters provided above. By using these standards,
25 Congress clearly intended to adopt the standards that have been established pursuant
26 to Section 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b).

27 Applying these standards to the instant case, there can be no doubt that the
28 EPA lacked jurisdiction over Petitioner pursuant to its Federal claims.

1 **B. THE ADMINISTRATIVE AGENCY HAD NO STATUTORY GROUNDS**
2 **FOR DECLINATION OF SUBMITTED MATERIALS EVIDENCING**
3 **SUPPORT OF PETITIONER'S DEFENSE CLAIMS.**

4 Pursuant to 28 U.S.C. Section 1331, the EPA has promulgated national water
5 quality standards which do not take into account local, site specific conditions. A
6 water quality standard consists of two parts: (1) a designated use for the particular
7 water body and (2) a water quality criterion designed to protect that use. Pursuant to
8 40 C.F.R. 131.12(a)(1), such water quality standards must accommodate important
9 economic or social development in the area in which the waters are located. Existing
10 uses must be protected.

11 The determination to be made is if the discharge in a particular water body
12 could reasonably be expected to interfere with the designated use of the water body.
13 Pursuant to 40 C.F.R. 124.85(c), the administrative law judge decides which evidence
14 to admit and exclude. Both direct and rebuttal evidence may be submitted in writing.
15 Still, the Petitioner is protected pursuant to his Constitutional Due Process Rights.

16 In the present matter, Petitioner sought to rebut the erroneous application of
17 the SWDA to the Easton Field Aquifer by submitting the hydrological records, the
18 previously existent water quality of the water within said aquifer, and otherwise
19 evidencing the historical usage of the subject aquifer. The EPA refused consideration
20 of said evidence. Such records provide evidence substantially relevant to the just
21 determination of this matter. The agency's own investigation of its allegations should
22 have revealed that the Easton Field Aquifer does not fall within the parameters
23 covered by the SDWA.

24 Under the substantial evidence rule, as applied in administrative proceedings,
25 all evidence is competent and may be considered, regardless of its source and nature,
26 if it is the kind of evidence that "a reasonable mind might accept as adequate to
27 support a conclusion." The competency of evidence for purposes of administrative
28 adjudicatory proceedings is made to rest upon the logical persuasiveness of such

1 evidence to the reasonable mind in using it to support a conclusion. Since the
2 administrative agency declined review of the above described substantial evidence
3 regarding the Easton Field Aquifer, the District Court need not defer to the decision of
4 this administrative board. See, Marker v. Finch, D.C. Del, 322 F. Supp. 905, 910 The
5 proceedings of the EPA must meet the rudiments of fair play, in order to be upheld.
6 Therefore, Petitioner respectfully requests this Honorable Court hold the EPA's
7 Administrative Order in this matter to be invalid for arbitrariness where the contesting
8 party (Petitioner) was denied due process of law in the conduct of the administrative
9 hearing.

10 IV.

11 ARBITRARY IMPOSITION OF INCREASED BONDING REQUIREMENT AND 12 ASSESSMENT OF PENALTIES ABSENT A PUBLIC COMMENT PERIOD FOR 13 COMMENTS AND REBUTTAL IS IN CLEAR VIOLATION OF PETITIONER'S 14 DUE PROCESS RIGHTS.

15 A. PROCEDURAL DUE PROCESS RIGHTS

16 The requirement that the government respect procedural due process of law is
17 of importance in environmental law land use controls in two principal instances. The
18 first is as a constitutional foundation to enforce procedural rights accorded under
19 environmental statutes. See, 42 U.S.C. Section 4321 for analogous matter. The
20 second is to provide a yardstick of constitutionally mandated procedural regularity to
21 any governmental decision-making process affecting property.

22 Procedural due process requirements are intended to insure that a
23 governmental agency has not violated the fair procedures guaranteed to individuals by
24 the Fifth and Fourteenth Amendments of the United States Constitution. Among the
25 chief requisites of procedural due process is an adequate opportunity to be heard
26 before a person is deprived of his property. Procedural due process only considers
27 whether a fair decision-making process has been used, but does not require that the
28 underlying rule be just or fair.

1 The SDWA has provisions for hearing procedures. Whether these provisions
2 are sufficient in the facts of each case must be examined. The Court has held that a
3 hearing must be provided within a reasonable time just after the imposition of the
4 environmental regulation. New Motor Vehicle Board v. Orrin W. Fox Co., 434 U.S.
5 1245, 98 S. Ct. 359, 54 L. Ed.2d 439 (1977) Limitations on property use usually
6 requires a full evidentiary hearing.

7 Clearly the most basic of the procedural due process rights is the right to a fair
8 hearing. An implicit requisite of this right is the opportunity to prepare an adequate
9 defense. Another dimension of adequate notice resulting in a fair hearing is whether
10 the hearing process afforded by a statute has been constitutionally applied. A statute
11 which is not facially vague or overbroad may, nonetheless, be judged unconstitutional
12 as applied because its provisions provide inadequate notice.

13 Pursuant to the SDWA, the basic goals identified by the EPA are deterrence of
14 violations and fair treatment of regulated companies. Where the recipient of an
15 Administrative Compliance Order disagrees with the agency's findings or the
16 reasonableness thereof, the recipient may challenge the agency's final action by
17 review of the district court, a suit brought to enforce its terms, or a subsequent
18 administrative penalty proceeding. The latter of these two remedies can subject the
19 recipient to sizable penalties for disobeying the order. However, where there are
20 reasonable and legitimate doubts about the propriety of the compliance order, it has
21 been perceived of as doubtful that the Court would countenance tactics such as
22 approving substantially duplicative penalties. See, Solid State Circuits v. EPA, 812
23 F.2d 383 (8th Cir. 1987)

24 In the present matter, the Petitioner is seeking judicial review of the AO of the
25 EPA based on reasonable and legitimate doubts as to the propriety of said Order.
26 Therefore, the excessive penalties for noncompliance sought by the EPA in its
27 complaint for enforcement of its AO should in any case be rejected.
28

1 Moreover, and administrative penalty and presumably an excessive bonding
2 requirement can be set aside by an appropriate federal court on the grounds that (1)
3 the finding of violation is not supported by substantial evidence or (2) that the penalty
4 and excessive bonding requirement represents an abuse of discretion as to the
5 amount or other matters. This is in accordance with standard principles of
6 administrative law where final agency action taken after a hearing is involved.

7 **B. AQUIFER EXEMPTIONS PURSUANT TO 40 C.F.R. SECTION 144.7**

8 Aquifers which are contaminated, otherwise unsuitable, or unlikely to be used
9 as drinking water may be exempted from the regulations pursuant to the SDWA. In
10 order to obtain this exemption, certain criteria as elaborated in 40 C.F.R. 146.4 must
11 be set forth. The crucial data is that the aquifer or some portion thereof:

- 12 (1) does not currently serve as a source of drinking water; and
13 (2) Cannot now and will not in the future serve as a source of drinking water
14 because:

15 “(a) It is mineral, hydrocarbon, or geothermal energy producing, or it
16 can be demonstrated by a permit applicant as a part of a permit
17 application to contain minerals or hydrocarbons that, considering
18 their quantity and location are expected to be commercially
19 predicable;”

20 Clearly in the present matter, the hearing board’s refusal to consider
21 Petitioner’s submissions prevented Petitioner from demonstrating that JAF’s Class II
22 injection wells should have reasonably been exempted pursuant to 40 C.F.R. Section
23 144.7 Moreover during the time that said injection wells were in noncompliance, JAF
24 was restrained in its good faith attempts at settlement in as much as its finances were
25 constrained by the jurisdiction of the United States Bankruptcy Code by reason of its
26 corporate restructuring pursuant to its Chapter 11 Bankruptcy. Said Bankruptcy
27 proceedings necessarily stayed Petitioner’s ability to conform his financial obligations
28

1 pursuant to his settlement negotiations. The EPA was and is well aware of this and
2 should be estopped from using the Bankruptcy Proceedings against him at this point.

3 In any case, hydrologic surveys containing relevant information about the
4 historic usage of the Easton Field Aquifer's water is essential to an accurate
5 adjudication and must be considered relevant evidence regarding the specific usage
6 of this aquifer. United States On Behalf of Acoma and Laguna Indian Pueblos v.
7 Bluewater-Toltec Irrigation District, 806 F.2d 986 (10th Cir. 1986)

8 The hydrologic record of the Easton Field Aquifer is clearly indicative that it is
9 not the sole or principal source of drinking water in its region. USDWs are defined as
10 aquifers with water quality less than 10,000 milligrams per liter of total dissolved solids
11 ("TDS") and capable of yielding two gallons per minute of water. The attached survey
12 and record amply demonstrate that the water quality of the subject aquifer is
13 excessive of the required standards for drinking water to be safe. Furthermore,
14 Petitioner's discharges have had negligible effect on the water quality therein.

15 V.

16 **THE AGENCY'S COMPLIANCE AND INCREASED BONDING ORDER**
17 **MANIFESTS A PERSISTENT DISREGARD OF FEDERAL RULES.**

18 The Agency's compliance and bonding order reflects disregard of federal rules
19 in various respects. First, the AO issued by the agency suggests a failure to consider
20 the limited grounds for imposing its jurisdiction as set forth in Section 1423(b)(1) of the
21 SDWA, 42 U.S.C. Section 300h-2(b). In light of the statutory scheme enacted by
22 Congress, the EPA may only impose its jurisdiction pursuant to the SDWA upon the
23 conditions set forth in the SDWA and for no other reasons. It is therefore incumbent
24 on the agency to clearly explain the basis for imposition and specify the statutory
25 grounds relied on in making its determination. The Agency's failure to state any
26 legally founded explanation for its AO applicable to the actual factual circumstances
27 for its AO in this case leaves Petitioner in a quandary, unable to discern whether the
28

1 EPA intended properly to rely on any of the grounds set forth in the SDWA or
2 improperly on grounds not specified in the Act.

3 Second, the agency's order suggests that the Agency does not properly
4 interpret the SDWA. In its AO the agency states that Petitioner is in violation of the
5 SDWA and is thereby endangering the public health. However, the subject aquifer is
6 not a public water source in that the water contained therein is of an undrinkable
7 quality as codified within the ancillary laws related to this very act. Moreover, the none
8 of the criteria set forth in the SDWA is satisfied in the present matter. Therefore,
9 original jurisdiction over Petitioner or JAF cannot be held pursuant to the SDWA.

10 As stated in its AO, the Agency is at best, if acting in good faith at all, acting
11 upon some loose interpretation of its discretionary powers in acting on behalf of the
12 public health and safety and in complete disregard to Petitioner's due process rights.
13 While the EPA's discretion may seem unfettered to some, its discretion is not limitless
14 pursuant to the SDWA. The agency's failure to heed the limitations imposed by the
15 SDWA is Orwellian, particularly when considered in conjunction with its failure to
16 specify any clear and factual basis for its AO. Therefore, this AO manifests a
17 complete disregard of federal rules which must be corrected by granting Petitioner's
18 request for mandamus compelling revocation of the administrative order , declaratory
19 judgment, injunction prohibiting the wrongful application of the SDWA in regard to
20 Petitioner's Class II injection wells on the subject mineral leases, and directing the
21 dismissal of the EPA's action to enforce its administrative order regarding Petitioner as
22 an individual and JAF.

23 VI.

24 THE ADMINISTRATIVE ORDER RAISES NEW AND IMPORTANT 25 ISSUES OF LAW OF FIRST IMPRESSION.

26 The EPA's AO raises new and important issues of law which have not been
27 addressed by this Court including the following:
28

1 (1) Did the Agency declination of a public comment period following the
2 imposition of the AO and its excessive bonding requirement and failure to
3 allow the submission of key evidence and materials indicative of the history and
4 hydrological record of the use of the subject aquifer violate Petitioner's due
5 process rights?

6 (2) Does Section 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b) give
7 the EPA jurisdiction over JAF's mineral leases even though these leases are
8 adjacent to an aquifer which does not fall within the defined confines of the
9 SDWA as shown by the historical hydrological record of subject aquifer?

10 (3) Does the EPA have the ability to preclude a meaningful public comment
11 period prior to increasing a bonding requirement by threefold and not allowing
12 rebuttal regarding said imposition?

13 (4) Is mandamus the appropriate method for review of an AO pursuant to
14 Section 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b)?

15 (5) Is the EPA's discretion to prosecute claims pursuant to the SDWA
16 narrowly circumscribed to the defined parameters of the SDWA?

17 (6) May constitutionally based due process rights to rebuttal and public
18 comment be arbitrarily ignored and dismissed by an administrative
19 agency to the point of ignoring evidence of defending and supportive
20 of the lack of Petitioner's culpability in regard to violating the SDWA?

21 This Court should resolve the foregoing issues so that litigants, agencies, and
22 the Courts within this Circuit can understand when an agency may or may not decline
23 submission of evidence supportive of the innocence from wrongdoing of an accused
24 within the administrative law process, how exercise of the SDWA is to be conducted,
25 and to whom it may be directed, and how review of administrative orders pursuant to
26 the SDWA may best be had. Proper interpretation and application of Section
27 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b) and the endangerment of
28 drinking water sources demands guidance from this Court to avoid jurisdictional

1 disputes and to enable the federal courts to properly perform their functions in
2 presiding over administrative law decisions and claims in those circumstances that
3 Congress has seen fit to require the exercise of limited jurisdiction.

4 VII.

5 CONCLUSION.

6 All of the factors traditionally considered by the Court in evaluating requests for
7 mandamus support Petitioner's request here. Accordingly, the EPA should be ordered
8 to vacate its administrative compliance and bonding order and to dismiss its complaint
9 for enforcement thereof in its entirety. Moreover, the Court should take the
10 opportunity to resolve the new and important issues of law raised herein, and provide
11 necessary guidance to litigants, agencies, and the Honorable Courts with respect to
12 the proper interpretation and application of the principles codified within Section
13 1423(b)(1) of the SDWA, 42 U.S.C. Section 300h-2(b) regarding the endangerment of
14 drinking water sources.

15 Dated: May 13, 1996

Respectfully submitted,

16
17 By:  _____

Peter E. Jolly
In pro per

CROSS REFERENCES

- Approval of State underground injection control program, revision or amendment of requirements of regulation, showing of effectiveness of program by State, see 42 USCA § 300h-4.
 Records and inspections, persons subject to requirements, see 42 USCA § 300j-4.
 Underground water source protection program defined for purpose of this section, see 42 USCA § 300j-2.

LIBRARY REFERENCES**American Digest System**

- Cooperation between states and United States, see States ¶4.19.
 Powers reserved to states, see States ¶44.
 Rights as to purity of natural water courses, see Waters and Water Courses ¶64.

Encyclopedias

- Concurrent or conflicting state and federal legislation, see C.J.S. States § 24.
 Federal and state cooperation, see C.J.S. States § 28.
 Right as to purity of water, see C.J.S. Waters § 43.
 Subterranean and percolating waters; pollution, see C.J.S. Waters § 97.

WESTLAW ELECTRONIC RESEARCH

- States cases: 360k[add key number].
 Waters and water courses cases: 405k[add key number].
 See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS**Aquifer exemption 1****Mechanical integrity requirement 2****1. Aquifer exemption**

Approval by the Environmental Protection Agency of a 6.7-acre aquifer exemption to state's underground injection control program under the Safe Drinking Water Act, to establish research and development area in connection with potential mining of uranium, was supported by substantial evidence indicating that aquifer was not used as source of drinking water and was so contaminated by uranium that it will be economically or technologically impractical to render the water fit for human consumption. *Western Nebraska Resources Council v. E.P.A.*, C.A.8, 1986, 793 F.2d 194.

2. Mechanical integrity requirement

Mechanical integrity requirement of underground injection control rule for Indian reservation, which required wells pass pressure test demonstrating that there was no significant leak in casing, tubing or packer, promulgated by Environmental Protection Agency, did not violate Safe Drinking Water Act and oil company challenging rule failed to establish that "no significant leak" requirement interfered with or impeded oil production, or that there was not substantial evidence to justify Administrator's conclusion that mechanical integrity test was essential to protect underground sources of drinking water. *Phillips Petroleum Co. v. U.S. E.P.A.*, C.A.10, 1986, 803 F.2d 545.

§ 300h-2. Enforcement of program**(a) Notice to State and violator; issuance of administrative order; civil action**

(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 300h-1(b)(3) of this title or section 300h-4(c) of this title) that any person who is

subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (c) of this section requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b) of this section.

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, the Administrator shall issue an order under subsection (c) of this section requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b) of this section.

(b) Civil and criminal actions

Civil actions referred to in paragraphs (1) and (2) of subsection (a) of this section shall be brought in the appropriate United States district court. Such court shall have jurisdiction to require compliance with any requirement of an applicable underground injection program or with an order issued under subsection (c) of this section. The court may enter such judgment as protection of public health may require. Any person who violates any requirement of an applicable underground injection control program or an order requiring compliance under subsection (c) of this section—

(1) shall be subject to a civil penalty of not more than \$25,000 for each day of such violation, and

(2) if such violation is willful, such person may, in addition to or in lieu of the civil penalty authorized by paragraph (1), be imprisoned for not more than 3 years, or fined in accordance with Title 18, or both.

(c) Administrative orders

(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation or other requirement of this part other than those relating to—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

he Administrator may also issue an order under this subsection either assessing a civil penalty of not more than \$10,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of \$125,000, or requiring compliance with such regulation or other requirement, or both.

(2) In any case in which the Administrator is authorized to bring civil action under this section with respect to any regulation, or other requirement of this part relating to—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than \$5,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of \$125,000, or requiring compliance with such regulation or other requirement, or both.

(3)(A) An order under this subsection shall be issued by the Administrator after opportunity (provided in accordance with this paragraph) for a hearing. Before issuing the order, the Administrator shall give to the person to whom it is directed written notice of the Administrator's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the order. Such hearing shall not be subject to section 554 or 556 of Title 5, but shall provide a reasonable opportunity to be heard and to present evidence.

(B) The Administrator shall provide public notice of, and reasonable opportunity to comment on, any proposed order.

(C) Any citizen who comments on any proposed order under paragraph (B) shall be given notice of any hearing under this subsection and of any order. In any hearing held under subparagraph (A), such citizen shall have a reasonable opportunity to be heard and to present evidence.

(D) Any order issued under this subsection shall become effective 30 days following its issuance unless an appeal is taken pursuant to paragraph (6).

(4)(A) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and may specify a reasonable time for compliance.

(3) In assessing any civil penalty under this subsection, the Administrator shall take into account appropriate factors, including

(i) the seriousness of the violation; (ii) the economic benefit (if any) resulting from the violation; (iii) any history of such violations; (iv) any good-faith efforts to comply with the applicable requirements; (v) the economic impact of the penalty on the violator; and (vi) such other matters as justice may require.

(5) Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action, or has issued an order under this subsection assessing a penalty, shall not be subject to an action under subsection (b) of this section or section 300h-3(c) or 300j-8 of this title, except that the foregoing limitation on civil actions under section 300j-8 of this title shall not apply with respect to any violation for which—

(A) a civil action under section 300j-8(a)(1) of this title has been filed prior to commencement of an action under this subsection, or

(B) a notice of violation under section 300j-8(b)(1) of this title has been given before commencement of an action under this subsection and an action under section 300j-8(a)(1) of this title is filed before 120 days after such notice is given.

(6) Any person against whom an order is issued or who commented on a proposed order pursuant to paragraph (3) may file an appeal of such order with the United States District Court for the District of Columbia or the district in which the violation is alleged to have occurred. Such an appeal may only be filed within the 30-day period beginning on the date the order is issued. Appellant shall simultaneously send a copy of the appeal by certified mail to the Administrator and to the Attorney General. The Administrator shall promptly file in such court a certified copy of the record on which such order was imposed. The district court shall not set aside or remand such order unless there is not substantial evidence on the record, taken as a whole, to support the finding of a violation or, unless the Administrator's assessment of penalty or requirement for compliance constitutes an abuse of discretion. The district court shall not impose additional civil penalties for the same violation unless the Administrator's assessment of a penalty constitutes an abuse of discretion. Notwithstanding section 300j-7(a)(2) of this title, any order issued under paragraph (3) shall be subject to judicial review exclusively under this paragraph.

(7) If any person fails to pay an assessment of a civil penalty—

(A) after the order becomes effective under paragraph (3), or

(B) after a court, in an action brought under paragraph (6), has entered a final judgment in favor of the Administrator,

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CORPORATE OFFICES

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February 10, 1992

Mr. Matthew Morris
Office of Regional Counsel
Mr. Michael R. Hollinger, Chief
Compliance/Enforcement Unit
UIC/Underground-Water Protection
345 Courtland Street N.E.
Atlanta, Georgia 30365

Re: Docket No. 4-UICC-029-89
Correction of Clerical error,
letter shall read " requesting a
hearing of Administrative Order"

Dear Mr. Morris & Hollinger:

This letter is to inform your office that I am requesting a hearing of the Administrative Order issued to JAF Oil Company Inc., this notice is pursuant to Section 1423 (c) (6) of the SWDA, and 42 U.S.C §300-2 (2) (6). JAF Oil Company Inc. shall appeal hearing decision if necessary to the Federal District Court of Owensboro, Kentucky if hearing procedure resulted in any Administrative Procedures, prejudice and/or civil rights violations against JAF Oil Company Inc..

I shall furnish your office additional information on my request for the hearing and proposed appeal if necessary within 7 days.

Regards


Peter Jolly

United States District Court

WESTERN

DISTRICT OF
OWENSBORO DIVISION

KENTUCKY

UNITED STATES OF AMERICA

SUMMONS IN A CIVIL ACTION

v.

CASE NUMBER:

4:95CV-169R

JAF OIL COMPANY, INC.,
and PETER E. JOLLY

TO: (Name and Address of Defendant)

Peter E. Jolly
22653 Margarita Drive
Woodland Hills, California 91364

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Regina S. Edwards
U.S. Attorney's Office
510 W. Broadway, 10th Floor
Louisville, KY 40202

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JEFFREY A. APPERSON

CLERK

DATE

9-1-95

BY DEPUTY CLERK

COPY

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

Jeffrey A. Apperson, Clerk

SEP - 1 1995

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
JAF OIL COMPANY, INC.,)
and PETER E. JOLLY,)
)
Defendants.)

U.S. DISTRICT COURT
WEST'N. DIST. KENTUCKY

Civil Action No.

4:95CV-169-R

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this complaint and alleges as follows:

NATURE OF THE CASE

1. This is a civil action for injunctive relief and civil penalties pursuant to Section 1423(b)(1) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. §300h-2(b), for Defendants' violation of an Administrative Order ("AO") issued by EPA to enforce Part C of the SDWA. Plaintiff seeks an order compelling Defendants to comply with the terms of the AO issued by EPA in accordance with Section 1423(c) of the SDWA, 42 U.S.C. §300h-2(c), and civil penalties for Defendants' violation of the AO. Plaintiff also seeks an order compelling Defendant Jolly to comply with the requirements of the SDWA and its implementing regulations, and civil penalties for Defendant Jolly's violations

of the UIC regulations.

2. Authority to bring this action is vested in the United States Department of Justice by 28 U.S.C. §§516 and 519, and by Section 1423(a)(2) and (b) of the SDWA, 42 U.S.C. §300h-2(a)(2) and (b).

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331, 1345, and 1355, as well as Section 1423(b) of the SDWA, 42 U.S.C. §300h-2(b).

4. This Court has personal jurisdiction over Defendant JAF Oil Company, Inc. ("JAF"), the owner and operator of the underground injection wells that are the subject of this action, because Defendant JAF was doing business in this judicial district at all relevant times.

5. This Court has personal jurisdiction over Defendant Peter E. Jolly ("Jolly"), the owner and operator of the underground injection wells that are the subject of this action, because Defendant Jolly was doing business in this judicial district at all relevant times.

6. Venue is proper in this judicial district under 28 U.S.C. §§1391(b)-(c) and 1395(a), and under Section 1423(b) of the SDWA, 42 U.S.C. §300h-2(b), because the events giving rise to this action arose within this District.

PARTIES

7. Plaintiff is the United States of America, acting on behalf of the EPA. Authority to bring this action is vested in

the Attorney General pursuant to Section 1450(f) of the SDWA, 42 U.S.C. §300j-9(f).

8. Defendant JAF Oil Company, Inc. is a California corporation not authorized to do business in the Commonwealth of Kentucky, engaged in the business of oil and gas exploration and production in the Commonwealth of Kentucky. JAF has been the owner and operator of the subject wells within the meaning of the SDWA and its implementing regulations at all times relevant to this action.

9. Defendant Peter E. Jolly is a resident of the State of California. Defendant Jolly is President of JAF, and, upon information and belief, is the officer responsible for and able to direct all activities of the corporation.

10. Each Defendant is a "person" within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. §300f(2).

11. Defendants have been the owners or operators of the subject wells on and after June 25, 1984, the effective date of the UIC program in Kentucky and are therefore, regulated under the UIC program.

STATUTORY AND REGULATORY FRAMEWORK

12. Section 1422 of the SDWA, 42 U.S.C. §300h-1, requires the Administrator of EPA to list in the Federal Register each state for which an underground injection control ("UIC") program may be necessary to assure that underground injection of fluids will not endanger drinking water sources, and to establish regulations for EPA administration of UIC programs in the absence

of an approved state program in a listed state.

13. The Administrator identified Kentucky as a state requiring a UIC program. 42 Fed. Reg. 43420 (Sept. 25, 1978).

14. EPA promulgated regulations governing the underground injection of fluids pursuant to Section 1421 of the SDWA, which are codified at 40 C.F.R. §§124, 144, 145, & 146.

15. The Commonwealth of Kentucky did not submit an application for primary enforcement responsibility of the UIC program as provided in Section 1422(b) of the SDWA, 42 U.S.C. §300h-1(b).

16. Pursuant to Section 1422(c) of the SDWA, 42 U.S.C. §300h-1(c), the Administrator promulgated a UIC program for the Commonwealth of Kentucky, codified at 40 C.F.R. Part 147 Subpart S, which requires compliance with the regulations at 40 C.F.R. Parts 124, 144, 146 and §147.900 et seq. 49 Fed. Reg. 20138 (May 11, 1984).

17. The federally-promulgated UIC program for the Commonwealth of Kentucky became effective on June 25, 1984.

18. At all times relevant to this action, EPA has administered and enforced Part C of the SDWA, Protection of Underground Sources of Drinking Water, 42 U.S.C. §300h et seq., within the Commonwealth of Kentucky, pursuant to SDWA §1422(c), 42 U.S.C. §300h-1(c), and 40 C.F.R. §147.901(a). All required filings and submissions under the Kentucky UIC program are to be made to the Division Director, Region IV Water Management Division, by authority duly delegated by the Regional Administrator

of EPA Region IV.

19. Pursuant to 40 C.F.R. §144.3, an existing injection well is one that began injection before a UIC program was approved or prescribed. Under 40 C.F.R. §144.6(b)(2), wells that inject fluid for enhanced recovery of oil or natural gas are classified as Class II wells.

20. On June 25, 1984, pursuant to the regulations promulgated under the authority of the SDWA, 42 U.S.C. §300f et seq., existing injection wells became authorized by rule for operation in compliance with UIC regulations.

21. Pursuant to SDWA §1423(a)(2) and (b), 42 U.S.C. §300h-2(a) and (b), the Administrator of EPA may bring a civil judicial action to require compliance with the regulations at 40 C.F.R. §§124, 144, 146 & 147, or to require compliance with an Administrative Order issued by the Administrator pursuant to 42 U.S.C. §300(h)-2(c), as well as to seek civil penalties for violations of these regulations or an Administrative Order. Section 1423(b) of the SDWA provides that any person shall be subject to a civil penalty of not more than \$25,000 for each day of such violation.

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

22. At all times relevant to this action, Defendant JAF owned or operated approximately 89 Class II injection wells, as defined by 40 C.F.R. §§144.3, 144.6, 146.3 and 146.5. JAF's oilfield operations rely on the injection of fresh water mixed with brine to enhance the production of oil.

23. The subject wells are located on the following leases in Easton Field, Hancock County, Commonwealth of Kentucky: Link Richards, Richard Mason, R. A. Richards, W. F. Burke, H. D. Fuqua, Ida Fuqua, Smith Heirs (or Sarah Smith), Theila Richards, Lincoln Richards, Hallie Mason, W. C. Smith, and Oda Richards.

24. The subject mineral leases overlie a shallow aquifer which has total dissolved solids less than 10,000 mg/l and which is currently being used for human consumption. The aquifer has not been exempted from regulation. EPA has therefore determined that this formation is an underground source of drinking water ("USDW") as defined by 40 C.F.R. §144.3. This USDW is the only source of drinking water in the immediate area.

FIRST CLAIM FOR RELIEF

(Violations of the Administrative Order)

25. Paragraphs 1 through 24 are realleged and incorporated by reference as if fully set forth below.

26. On January 9, 1992, EPA issued an Administrative Order ("AO") to Defendant JAF pursuant to Section 1423(c)(3) of the SDWA, 42 U.S.C. §300h-2(c)(3), to address violations of the SDWA and the UIC regulations promulgated thereunder.

27. Defendant JAF failed to request a hearing in a timely manner during the public comment period provided pursuant to Section 1423(c)(3)(A) of the SDWA, 42 U.S.C. §300h-2(c)(3)(A).

28. Defendant JAF failed to appeal the issuance of the AO to the appropriate U.S. District Court within thirty (30) days

after its issuance as provided in Section 1423(c)(6), 42 U.S.C. §300h-2(c)(6).

29. The AO therefore became fully effective and enforceable on February 8, 1992.

30. Section 1423(c)(6) of the SDWA, 42 U.S.C. §300h-2(c)(6) provides that an AO issued under Section 1423(c)(3) of the SDWA, 42 U.S.C. §300h-2(c)(3), shall be subject to judicial review exclusively under that paragraph. The terms of the AO are not now subject to review.

31. The AO found Defendant JAF had violated Section 1421 of the SDWA, 42 U.S.C. §300h, and its implementing regulations governing the operation of underground injection wells in 40 C.F.R. Part 144. A copy of the AO, together with proof of public notice and service on Defendant JAF, is attached hereto as Exhibit A.

32. The AO requires Defendant JAF to complete the following corrective actions to comply with the UIC regulations and the SDWA:

a) Submit financial documents to provide evidence of financial responsibility in an amount sufficient to have an independent third party plug and abandon its injection wells in a manner approved by EPA, an amount conservatively estimated by EPA to total \$204,700.00. JAF was to make quarterly payments of \$3,337.00 (\$13,350.00 per year) to EPA, beginning March 31, 1992.

b) Submit a list of all injection wells JAF owns or operates and a completion report for each injection well by May

31, 1992.

c) Begin testing each well by means of a Mechanical Integrity Test. By August 31, 1992, JAF was to have tested 20% of the eighty-nine (89) injection wells JAF operates.

d) By May 31, 1992, perform a step rate test on one of its injection wells to determine the fracture pressure of the injection formation.

e) Submit to EPA annual reports on EPA form 7520-11 which summarize the results of all available monitoring data for the prior year (October 1 to September 30). JAF was given until May 31, 1992, to submit the monitoring reports for 1991.

f) Bring each enhanced recovery injection well's exterior cement requirements into compliance according to the Mechanical Integrity Testing schedule of Paragraph 9 of the AO. JAF was to have demonstrated adequate external cementing on 20% of its eighty-nine injection wells by August 31, 1992.

g) Submit to EPA monitoring data on twelve of JAF's temporary abandoned injection wells, with monitoring on a semi-annual basis beginning in May 1992 and the first monitoring results to be submitted to EPA in June 1992.

33. Defendant JAF has failed to comply with any of the requirements of the AO set out in Paragraph 32 above.

34. Defendant JAF has been in violation of the AO during the following periods:

a) Since April 1, 1992, for failure to make quarterly payments in evidence of financial responsibility;

b) Since June 1, 1992, for 1) failure to submit a list of all wells owned, 2) failure to perform a step rate test, 3) failure to submit a completion report on all injection wells owned, 4) failure to submit annual monitoring reports, and 5) failure to monitor 12 temporarily abandoned injection wells;

c) Since July 1, 1992, for failure to submit monitoring results of 12 temporarily abandoned injection wells;

d) Since September 1, 1992, for failure to perform a mechanical integrity test on 20% (18) of its injection wells and failure to have exhibited adequate external cement of 20% (18) of its injection wells; and

e) Since December 1, 1992, for failure to plug and abandon wells past the due date for mechanical integrity testing and not yet tested.

35. Pursuant to SDWA § 1423(b), 42 U.S.C. §300h-2(b), JAF is liable for a civil penalty not to exceed \$25,000 for each day of each such violation.

36. Unless restrained by an Order of the Court, Defendants will continue to violate the AO.

SECOND CLAIM FOR RELIEF

(Individual Liability of Defendant Jolly For
Violations of the AO)

37. Paragraphs 1 through 36 are realleged and incorporated by reference as if fully set forth below.

38. Defendant Jolly is President and principal operating officer for Defendant JAF. Defendant Jolly has been personally responsible for the day-to-day operations of the subject wells at

all times relevant to this action.

39. At all times relevant to this Complaint, Defendant Jolly has had the authority and ability to control the operations from which this lawsuit arises.

40. Defendant Jolly has been personally involved on behalf of JAF in all negotiations with EPA, and has been the sole corporate contact for all UIC regulatory matters.

41. Section 1423(b) of the SDWA, 42 U.S.C. §300h-2(b), provides: "[a]ny person who violates any requirement of . . . an order requiring compliance under subsection (c)" shall be subject to a penalty for such violation.

42. The definition of "person" in the SDWA specifically provides that the term "includes officers, employees, and agents of any corporation, company, [or] association." Section 1401(12) of the SDWA, 42 U.S.C. §300f(12).

43. Defendant Jolly is the principal or sole shareholder of Defendant JAF.

44. Defendant JAF has not applied for a certificate of authority from the Secretary of State for the Commonwealth of Kentucky or otherwise sought or obtained authorization to do business in Kentucky as a corporation.

45. Defendant JAF has allowed its corporate status to lapse in the State of California periodically. Its status was suspended during the following periods: from December 3, 1984 to May 15, 1985; from March 1, 1988 until May 28, 1991; and from August 3, 1992 to the present.

46. Defendant JAF has not operated in compliance with corporate formalities required by state laws.

47. On October 31, 1991, Defendant Jolly represented in correspondence to EPA that JAF had equipment valued in excess of \$2.5 million, oil reserves expected to generate more than \$140 million in profits, and total company assets over \$15 million.

48. Jolly made these representations to EPA in efforts to convince EPA that JAF would qualify to use a financial statement as evidence of financial responsibility required by 40 C.F.R §144.28(d).

49. Financial responsibility requirements provide assurance that injection wells will be properly plugged and abandoned at the end of their useful life or in the event they endanger a USDW. If evidence of financial responsibility is not maintained as required by the regulations, EPA does not have the resources to plug and abandon such wells.

50. If a company qualifies to use a financial statement as evidence of financial responsibility, it may avoid costs associated with other means of satisfying the financial responsibility requirement. Such costs typically include costs of purchasing a performance or payment bond, or costs of establishing a letter of credit, each of which includes costs of setting up a stand-by trust; or costs associated with funding a fully-funded trust.

51. In filings with the U.S. Bankruptcy Court for the Central District of California, Los Angeles Division, JAF listed

corporate assets of \$1 million and liabilities of \$607,330.

52. Assuming that the representations to the U.S. Bankruptcy Court were accurate, those made to EPA constitute fraudulent statements intended to avoid compliance with the UIC regulations.

53. JAF is a mere instrumentality of Defendant Jolly.

54. JAF's corporate form has been used to commit a fraud or wrong.

55. JAF's corporate form has been used by Defendant Jolly as a device to avoid legal obligations of complying with the UIC program.

56. Defendant JAF is the alter ego of Defendant Jolly.

57. Pursuant to SDWA § 1423(b), 42 U.S.C. §300h-2(b), Defendant Jolly is liable for a civil penalty not to exceed \$25,000 for each day of each violation of the AO.

58. Unless restrained by an Order of the Court, Defendant Jolly will continue to violate the AO.

THIRD CLAIM FOR RELIEF

(Financial Responsibility)

59. Paragraphs 1 through 58 are realleged and incorporated by reference as if fully set forth below.

60. 40 C.F.R. §144.28(d) requires owners or operators of Class II wells to maintain financial responsibility and resources to close, plug, and abandon underground injection operations in a acceptable manner. The owner or operator is required to show acceptable evidence of such financial responsibility.

61. Mr. Jolly and JAF failed to provide acceptable evidence of financial responsibility in violation of 40 C.F.R. §144.28(d).

62. Pursuant to SDWA § 1423(b), 42 U.S.C. §300h-2(b), Defendant Jolly is liable for a civil penalty not to exceed \$25,000 for each day of each such violation.

63. Unless restrained by an Order of the Court, Defendant Jolly will continue to violate 40 C.F.R. §144.28(d).

FOURTH CLAIM FOR RELIEF

(Submission of Annual Reports)

64. Paragraphs 1 through 63 are realleged and incorporated by reference as if fully set forth below.

65. 40 C.F.R. §144.28(h)(2) requires owners or operators of Class II wells to submit an annual report of all monitoring required by the UIC regulations.

66. Mr. Jolly and JAF failed to provide any annual reports of monitoring, in violation of 40 C.F.R. §144.28.

67. Pursuant to SDWA § 1423(b), 42 U.S.C. §300h-2(b), Defendant Jolly is liable for a civil penalty not to exceed \$25,000 for each day of each such violation.

68. Unless restrained by an Order of the Court, Defendant Jolly will continue to violate 40 C.F.R. §144.28.

FIFTH CLAIM FOR RELIEF

(Submission of Fracture Pressure Data)

69. Paragraphs 1 through 68 are realleged and incorporated by reference as if fully set forth below.

70. 40 C.F.R. §147.904(a)(2) requires owners or operators

of injection wells to submit acceptable data which defines the fracture pressure of the injection formation.

71. Mr. Jolly and JAF failed to submit acceptable data defining the fracture pressure of the injection formation, in violation of 40 C.F.R. §144.28 & 40 C.F.R. §147.904(a)(2).

72. Pursuant to SDWA § 1423(b), 42 U.S.C. §300h-2(b), Defendant Jolly is liable for a civil penalty not to exceed \$25,000 for each day of each such violation.

73. Unless restrained by an Order of the Court, Defendant Jolly will continue to violate 40 C.F.R. §144.28 & 40 C.F.R. §147.904(a)(2).

SIXTH CLAIM FOR RELIEF

(Case and Cement of Each Well)

74. Paragraphs 1 through 73 are realleged and incorporated by reference as if fully set forth below.

75. 40 C.F.R. §144.22(b) requires the owner or operator to case and cement its existing Class II wells in compliance with 40 C.F.R. §144.28(e), within three years of authorization of the program. 40 C.F.R. §144.28(e) requires owners or operators of enhanced recovery wells to adequately case and cement the wells to prevent movement of fluids into or between underground sources of drinking water.

76. Since June 25, 1987, Mr. Jolly and JAF failed to adequately case and cement each of its existing wells to prevent movement of fluids into or between underground sources of drinking water, in violation of 40 C.F.R. §§ 144.22(b) &

144.28(e).

77. Pursuant to SDWA § 1423(b), 42 U.S.C. §300h-2(b), Defendant Jolly is liable for a civil penalty not to exceed \$25,000 for each day of each such violation.

78. Unless restrained by an Order of the Court, Defendant Jolly will continue to violate in violation of 40 C.F.R. §§ 144.22(b) & 144.28(e).

SEVENTH CLAIM FOR RELIEF

(Demonstration of Mechanical Integrity)

79. Paragraphs 1 through 78 are realleged and incorporated by reference as if fully set forth below.

80. 40 C.F.R. §144.28(g)(2)(iv) requires the owner or operator of enhanced recovery wells to demonstrate the mechanical integrity of each well pursuant to 40 C.F.R. §146.8 at least once every five years during the life of the injection well.

81. Mr. Jolly and JAF failed to demonstrate the mechanical integrity of each of its existing wells at least once every five years, in violation of 40 C.F.R. §§ 144.28(g)(2)(iv) & 146.8.

82. Pursuant to SDWA § 1423(b), 42 U.S.C. §300h-2(b), Defendant Jolly is liable for a civil penalty not to exceed \$25,000 for each day of each such violation.

83. Unless restrained by an Order of the Court, Defendant Jolly will continue to violate 40 C.F.R. §§ 144.28(g)(2)(iv) & 146.8.

PRAYER FOR RELIEF

WHEREFORE, The United States of America requests that this Court enter judgment in its favor as follows:

(1) Permanently enjoin Defendants from future violations of the SDWA and all regulations promulgated thereunder, and prohibit Defendants from injecting into any well at issue until the well is in compliance with the SDWA and all regulations promulgated thereunder;


(2) Order Defendants to comply with the attached AO issued February 8, 1992;

(3) Enter judgment against Defendants and in favor of the United States for civil penalties up to the amount of \$25,000 per day of violation for each violation of the SDWA; and

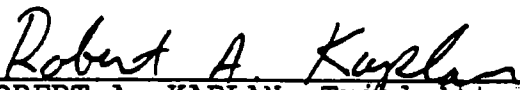
(4) Order Defendants to undertake any remedy that protection of the public health may require; and

(5) Grant the United States such further relief as is just and appropriate.

Respectfully submitted,



LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice



ROBERT A. KAPLAN, Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 616-8915

MICHAEL TROOP
United States Attorney
Western District of Kentucky

By:


Assistant United States Attorney

Dated: 9/1/95

Of Counsel:

Melissa Allen Heath, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, Georgia 30365
(404) 347-2641 ext. 2267

Exhibit A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.
ATLANTA, GEORGIA 30365

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REF: 4WM:GP

Mr. Peter Jolly
JAF Oil Co., Inc.
9777 Wilshire Boulevard
Suite 515
Beverly Hills, California 90212

Re: Final Administrative Order
Docket No. 4-UICC-029-89

The U. S. Environmental Protection Agency hereby issues to JAF Oil Co., Inc. the enclosed Administrative Order under Section 1423(c)(2) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §300h-2(c)(2).

If you have any questions regarding this matter, please contact either Mr. George Ford, Compliance and Enforcement Unit, at (404) 347-3379 or Mr. Matthew Morris, Office of Regional Counsel, at (404) 347-3777.

Sincerely yours,

W. Ray Cunningham
W. Ray Cunningham, Director
Water Management Division

Enclosure

cc: Mr. Matthew Morris, ORC
McCoy and McCoy Environmental Consultants, Inc.
Mr. Syd Levine

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

IN THE MATTER OF

JAF Oil Company, Inc.
Beverly Hills, California

DOCKET NO. 4-UICC-029-89

FINDINGS

AND

ADMINISTRATIVE ORDER

Proceedings under Section 1423(c)
of the Safe Drinking Water Act,
42 U.S.C. §300h-2(c)

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1423(c) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. §300h-2(c). The Administrator has delegated the authority to take these actions to the Regional Administrator for Region IV, who in turn has delegated them to the Water Management Division Director of EPA, Region IV.

FINDINGS

The Director hereby finds:

1. JAF Oil Company, Inc. ("Respondent") is a company organized as a corporation under the laws of the State of California and has its principal place of business in Beverly Hills, California. Respondent does business in the State of

Kentucky, but is not registered with the Kentucky Secretary of State as a foreign corporation or otherwise authorized to do business in the State of Kentucky as a corporation. Respondent is a "person" within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. §300f-(12).

2. Respondent owns and operates approximately eighty-nine (89) injection wells in Easton Field, Hancock County, Kentucky. The subject wells are listed in Exhibit I, attached hereto.

3. By letter dated November 8, 1988, EPA notified Respondent that it was in violation of the SDWA, 42 U.S.C. §300f et seq., and the Underground Injection Control ("UIC") regulations promulgated pursuant to §§1421 and 1422 of the SDWA. Listed below are the specific violations and the UIC regulations which are being violated:

- (a) 40 C.F.R. §144.28(d) and §144.52(a)(7), which requires the owner or operator to maintain financial responsibility and resources to close, plug and abandon the injection operation in accordance with a plugging and abandonment plan approved by EPA.
- (b) 40 C.F.R. §144.28(h)(2), which requires the owner or operator to submit annual reports to EPA summarizing the results of all monitoring.
- (c) 40 C.F.R. §147.904(a)(2), which requires the owner or operator to submit data acceptable to EPA which defines the fracture pressure of the injection information.
- (d) 40 C.F.R. §§144.28(e) and 146.22, which requires the owner or operator to case and cement each injection well to prevent movement of fluids into or between USDWs.
- (e) 40 C.F.R. §144.28(g)(2)(iv)(a), which requires the owner or operator to demonstrate the mechanical integrity of injection wells at least once every five (5) years.

EPA requested that representatives of Respondent be present at the EPA office in Atlanta, Georgia, on November 30, 1988, to show cause why EPA should not refer the violations listed above to the U.S. Attorney for initiation of legal proceedings.

4. On November 29, 1988, a representative of Respondent contacted EPA concerning the "show cause" meeting scheduled for November 30, 1988. The representative stated that Respondent could not afford to send a representative to Atlanta, Georgia, and requested that the meeting be cancelled. EPA agreed to cancel the meeting and to submit a draft Administrative Order to Respondent.

5. Respondent is a debtor in bankruptcy pursuant to a petition filed in the United States Bankruptcy Court for the Central District of California under Chapter 11 of the Bankruptcy Code on June 20, 1988.

ADMINISTRATIVE ORDER

Based on the foregoing findings, having taken into account: (1) the seriousness of Respondent's violations described in Paragraph 3 above; (2) the potential for endangerment to human health or the environment; and (3) such other matters as justice may require, including the administrative record, and under the authority of Section 1423(a) of the SDWA, 42 U.S.C. §300h-2, THE DIRECTOR HEREBY ORDERS COMPLIANCE WITH THE PROVISIONS OF PARAGRAPHS 6 TO 20 FOLLOWING:

6. The provisions of this Order shall apply to and be binding upon Respondent, its employees, successors, and assigns. Notice of this Order shall be given to any successors in interest prior to transfer of the ownership or operational control of the facility. Respondent shall require as a condition of transfer that the successor complies with all provisions of this Order. Action or inaction of any person, firm, contractor, employee, agent, or corporation acting under,

through or for Respondent, shall not excuse any failure to fully perform its obligations under this Order.

7. Respondent shall submit financial documents which provide evidence of financial responsibility in an amount sufficient to have an independent third party plug and abandon its injection wells in Kentucky in a manner approved by EPA. EPA presently conservatively estimates the total financial responsibility requirement at \$204,700.00. Respondent shall submit a minimum of \$13,350.00 per year in financial responsibility, in quarterly payments of \$3,337.00, evidenced by documents in the form of a bond with stand-by trust, letter of credit with stand-by trust, or a fully funded trust in language comparable to that found at 40 C.F.R. §144.70. The financial documents shall be submitted to EPA prior to the end of each calendar quarter of each year until Respondent has submitted full financial responsibility. EPA will review the present estimate of financial responsibility requirement to determine its adequacy no later than three (3) years after the issuance of the Order, and the amount of the scheduled payments may be adjusted appropriately.

8. By May 31, 1992, Respondent shall submit a list of all the injection wells it operates and a completion report for each well.

9. Respondent shall begin testing its wells for mechanical integrity in an approved manner no later than May 31, 1992. An approved mechanical integrity test ("MIT") shall be performed on all the eighty-nine (89) injection wells according to the following schedule:

20% of all wells by August 31, 1992
40% of all wells by August 31, 1993
60% of all wells by August 31, 1994
80% of all wells by August 31, 1995
100% of all wells by August 31, 1996

Respondent may demonstrate the internal mechanical integrity of casing injectors and wells in which Respondent has cemented the tubing from top to bottom inside the existing casing (pursuant to Paragraph 14(b) of this Order) by conducting a Radioactive Tracer Survey ("RTS") or the "ADA" Pressure Test. If the "ADA" Pressure Test is used, the person and/or company conducting the test must demonstrate competence in running the test and obtain prior EPA approval. In addition, all MITs must be witnessed by EPA or its authorized representative. Injection wells completed with tubing and packer shall demonstrate internal mechanical integrity by passing the RTS or the standard annular pressure test. If the RTS is used, the packer must be unseated prior to running the test.

External mechanical integrity shall be demonstrated by review of cementing records or cement bond logs to verify the presence of adequate cement to prevent fluid movement into or between underground sources of drinking water ("USDWs").

Subsequent to the initial demonstration of mechanical integrity, Respondent shall demonstrate the internal mechanical integrity of each injection well with tubing and packer once every five (5) years.

For wells which do not have tubing and packer, Respondent shall monitor the injection pressure and flow rate at the well head. Readings shall be taken once a month and submitted to EPA in an acceptable form every six (6) months. If Respondent monitors and reports in compliance with this paragraph,

Respondent shall, subsequent to initial demonstration of internal mechanical integrity, demonstrate the internal mechanical integrity of each casing injector once every five (5) years. However, if Respondent fails to so monitor and report for any casing injector, Respondent shall demonstrate the internal mechanical integrity of such well once every two (2) years.

10. Any well which initially fails to demonstrate internal mechanical integrity shall either be reworked and pass an MIT or shall be plugged and abandoned in accordance with a plugging and abandonment plan approved by EPA, within ninety (90) days of the first failure of an MIT.

11. Injection must immediately cease at any well which fails the internal pressure portion of the MIT and may not be reinitiated until that well passes an internal pressure test.

12. By May 31, 1992, Respondent shall have performed a step-rate test on one of its injection wells to determine the fracture pressure of the injection formation. Respondent shall submit the data to EPA by June 30, 1992.

13. By May 31, 1992, and by May 31 of each subsequent year, Respondent shall submit to EPA annual reports (EPA Form 7520-11) summarizing the results of all available monitoring data for each injection well for the prior year (October 1 to September 30).

14. The injection wells operated by Respondent must meet the requirements of 40 C.F.R. §§144.28(e) and 146.22. These regulations require that the owner or operator case and cement each injection well to prevent movement of fluids into or

between USDWs. The requirements for Respondent's injection wells are as follows:

- a. Wells which have a minimum of 50 feet of cement at the bottom of casing and which pass the internal MIT will require no remedial casing and cementing work.
- b. For wells which have at least 50 feet of cement at the bottom of casing and do not pass the internal MIT the operator shall either:
 1. Cement tubing from top to bottom inside the existing casing, or
 2. Perform a cement squeeze to restore casing integrity, or
 3. Use any other technique to restore casing integrity which is approved in advance by EPA.
- c. All wells must have a minimum of 50 feet of cement at the bottom of the casing. Wells which do not meet this requirement will require remedial cementing work. The remedial cementing technique and workover plan must be approved by EPA.

The requirements listed above shall only apply to Respondent's existing Class II injection wells located in the Easton Field of Hancock County, Kentucky.

Because compliance with the terms of this paragraph is intrinsically linked to the demonstration of mechanical integrity (Paragraphs 9 and 10 herein), such remedial casing and cementing activities shall be completed according to the schedules given in Paragraphs 9 and 10.

15. Respondent shall monitor twelve (12) temporarily abandoned injection or production wells. The wells to be monitored will be selected by EPA. The requirements for monitoring are as follows:

- a) Fluid level measurements shall be taken on a semi-annual basis beginning in May 1992, and each May and November thereafter.

- b) Monitoring results, except as noted below, shall be reported to EPA on annual basis, due prior to June 30, 1992, for initial monitoring, and prior to December 31 of each year thereafter.
- c) If Respondent determines that the fluid level in any well is at or above the base of the surficial aquifer or at the surface, then Respondent shall notify EPA orally within four (4) days after it has knowledge of such event, and shall notify EPA in writing within ten (10) days after it has knowledge of such event.

This requirement shall apply to all temporarily abandoned wells, including but not limited to the twelve (12) wells which are monitored.

Should the fluid level in any well rise to the base of the surficial aquifer or the surface, Respondent shall take whatever appropriate action is required to lower the fluid level. Appropriate action may include pumping the well to achieve the desired lowering of the fluid level or the P&A of the well in accordance with an EPA-approved P&A plan, and cessation of any nearby injection. The provisions of this paragraph will be reviewed to determine its adequacy three (3) years after the issuance of the Order.

GENERAL PROVISIONS

16. This Order does not constitute a waiver, suspension or modification of the terms and conditions of the SDWA, UIC regulations or conditions of any UIC permit. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the SDWA.

17. Violation of the terms of this Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the SDWA may subject Respondent to further enforcement action, including a civil action for enforcement of this Order under Section 1423(b) of the SDWA, a collection under

Section 1423(c)(7) of the SDWA, and civil and criminal penalties for violations of the compliance terms of this Order under Section 1423(b)(1) and (2) of the SDWA, 42 U.S.C. §300h-2(b)(1) and (2).

18. During the pendency of this Order, EPA shall have the authority, to the extent authorized by the SDWA, 42 U.S.C. 300f et seq. to enter Respondent's facility and all related locations at reasonable times and upon reasonable notice. EPA may request, for the purpose of examining and inspecting the facility, any and all records, logs, contracts or other documents which EPA needs to assess compliance with this Order. EPA shall be allowed to copy any such documents.

19. This Order is not and shall not be interpreted to be a permit for the injection of fluids under Section 1421 of the SDWA, 42 U.S.C. §300h, nor shall it in any way relieve Respondent of any obligation imposed by any permit issued thereunder, or of Respondent's obligation to comply with any provision of the SDWA, its implementing regulations or any other local, state or federal law. Nothing contained herein shall be construed to prevent or limit EPA's rights to obtain penalties or injunctive relief under Section 1423 of the SDWA or other federal statutes and regulations.

20. If any event beyond the control of Respondent, its successors or assigns, occurs which causes or may cause a delay in the achievement of any requirement of this Order, Respondent shall notify EPA orally within four (4) days of the time it has knowledge of the occurrence of such event. A written report of said event shall be submitted by certified mail to EPA within ten (10) days of the date Respondent received knowledge of the

event. Said report shall describe the violation or failure, its cause and all attendant circumstances, and the measure(s) taken or to be taken to prevent or minimize any such violation or failure and to comply with the pertinent requirements of this Order as soon as possible, and the timetable by which those measures are proposed to be implemented.

The burden of proving that any violation or failure is caused by circumstances beyond the control of and without fault of Respondent and the length of the delay attributable to such circumstances, shall rest with Respondent. Financial, economic, or business conditions or changes in same, unanticipated or increased costs or expenses, or problems relating to reasonably foreseeable technological infeasibility associated with the implementation of actions called for by this Order, shall not relieve Respondent of any obligation imposed under the terms of this Order, nor from payment of any penalty set forth in this Order.

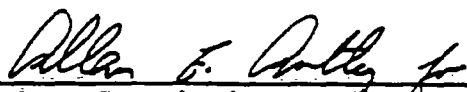
EPA will notify Respondent of its determination as to whether such circumstances are beyond Respondent's control and the extension of time, if any, for completion of the affected requirements. Respondent shall waive this right to any extension if it fails to provide EPA with written notice as provided herein or fails to provide adequate proof of the cause of the delay.

EFFECTIVE DATE

Pursuant to Section 1423(c)(3)(D) of the SDWA, 42 U.S.C.

- §300h-2(c)(3)(D), this Order becomes effective thirty (30) days from issuance unless appealed pursuant to Section 1423(c)(6) of the SDWA, 42 U.S.C. §300h-2(c)(6).

FOR THE U.S. ENVIRONMENTAL
PROTECTION AGENCY:



W. Ray Cunningham, Director
Water Management Division
U.S. EPA Region IV

1 - 9 - 92
Date of Issuance

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION**

**UNITED STATES OF AMERICA,
PLAINTIFF**

VS.

CASE NUMBER: 4:95CV-169-R

PETER E. JOLLY

DEFENDANT

ANSWER

Comes the defendant, Peter E. Jolly, in Pro Se, an individual, hereby states as follows answers to Plaintiffs complaint.

- 1. Defendant admits all of paragraph 1 of Plaintiff's Complaint.**
- 2. Defendant admits so much of paragraph 2 of Plaintiff's Complaint but denies allegation which states section 1423 (a) (2) and (b) of the SDWA, 42 USC 300h-2 (a) (2) and (b) are the authority to bring said action against this Defendant.**
- 3. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 3 of the complaint and the same are hereby denied.**
- 4. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 4 of the complaint and the same are hereby denied.**
- 5. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 5 of the complaint and the same are hereby denied.**
- 6. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 6 of the complaint and the same are hereby denied.**
- 7. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 7 of the complaint and the same are hereby denied.**
- 8. Defendant specifically denies each and every allegation contained in paragraph 8.**
- 9. Defendant specifically denies each and every allegation contained in paragraph 9.**

10. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 10 of the complaint and the same are hereby denied.
11. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 11 of the complaint and the same are hereby denied.
12. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 12 of the complaint and the same are hereby denied.
13. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 13 of the complaint and the same are hereby denied.
14. Admit
15. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 15 of the complaint and the same are hereby denied.
16. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 16 of the complaint and the same are hereby denied.
17. Admit
18. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 18 of the complaint and the same are hereby denied.
19. Admit
20. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 20 of the complaint and the same are hereby denied.
21. Admit
22. Defendant specifically denies each and every allegation contained in paragraph 22.
23. Admit
24. Denied
25. Refer to Item A
26. Admit
27. Defendant specifically denies each and every allegation contained in paragraph 27.
28. Admit
29. Defendant specifically denies each and every allegation contained in paragraph 29.
30. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 30 of the complaint and the same are hereby denied.

31. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 31 of the complaint and the same are hereby denied.
32. Admit
33. Defendant specifically denies all of paragraph 33 of Plaintiff's Complaint.
34. Defendant specifically denies each and every allegation contained in paragraph 34.
35. Defendant specifically denies each and every allegation contained in paragraph 35.
36. Defendant specifically denies each and every allegation contained in paragraph 36.
37. Refer to Item A
38. Defendant specifically denies each and every allegation contained in paragraph 38.
39. Defendant admits so much of paragraph 39 of Plaintiff's Complaint.
40. Defendant admits all of paragraph 40 of Plaintiff's Complaint.
41. Defendant admits all of paragraph 41 of Plaintiff's Complaint.
42. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the allegations contained in paragraph 42.
43. Defendant specifically denies each and every allegation contained in paragraph 43.
44. Defendant specifically denies each and every allegation contained in paragraph 44.
45. Defendant admits to the first sentence of paragraph 45 of Plaintiff's Complaint, but is without sufficient knowledge to enable him to form a belief as to the truth of the remainder of the allegations contained in numerical paragraph 45 of the Complaint and the same are hereby denied.
46. Defendant specifically denies each and every allegation contained in paragraph 46.
47. Defendant admits to paragraph 47 of Plaintiff's Complaint.
48. Defendant admits to paragraph 48 of Plaintiff's Complaint.
49. Defendant is without sufficient knowledge to enable him to form a belief as to the truth of the remainder of the allegations contained in paragraph 49 of the Complaint and the same are hereby denied.
50. Defendant admits each and every allegation contained in paragraph 50.
51. Defendant admits to paragraph 51 of Plaintiff's Complaint.
52. Defendant specifically denies each and every allegation contained in paragraph 52.
53. Defendant specifically denies each and every allegation contained in paragraph 53.

54. Defendant specifically denies each and every allegation contained in paragraph 54.
55. Defendant specifically denies each and every allegation contained in paragraph 55.
56. Defendant specifically denies each and every allegation contained in paragraph 56.
57. Defendant specifically denies each and every allegation contained in paragraph 57.
58. Defendant specifically denies each and every allegation contained in paragraph 58.
59. Refer to Item A
60. Defendant admits to paragraph 60 of Plaintiff's Complaint.
61. Defendant specifically denies each and every allegation contained in paragraph 61.
62. Defendant specifically denies each and every allegation contained in paragraph 62.
63. Defendant specifically denies each and every allegation contained in paragraph 63.
64. Refer to Item A
65. Defendant admits to paragraph 65 of Plaintiff's Complaint.
66. Defendant admits to paragraph 66 of Plaintiff's Complaint, but denies any violation of CFR 144.28.
67. Defendant specifically denies each and every allegation contained in paragraph 67.
68. Defendant specifically denies each and every allegation contained in paragraph 68.
69. Refer to Item A
70. Defendant admits to paragraph 70 of Plaintiff's Complaint.
71. Defendant specifically denies each and every allegation contained in paragraph 71.
72. Defendant specifically denies each and every allegation contained in paragraph 72.
73. Defendant specifically denies each and every allegation contained in paragraph 73.
74. Refer to Item A
75. Defendant admits to paragraph 75 of Plaintiff's Complaint.
76. Defendant specifically denies each and every allegation contained in paragraph 76.
77. Defendant specifically denies each and every allegation contained in paragraph 77.
78. Defendant specifically denies each and every allegation contained in paragraph 78.
79. Refer to Item A
80. Defendant admits to paragraph 80 of Plaintiff's Complaint.
81. Defendant specifically denies each and every allegation contained in paragraph 81.
82. Defendant specifically denies each and every allegation contained in paragraph 82.

83. Defendant specifically denies each and every allegation contained in paragraph 83.

ITEM."A". All allegations contained in paragraphs 25, 37, 59, 64, 69, 74, and 79 of Plaintiff's Complaint, see answers as supplied above.

FIRST DEFENSE

Plaintiff's complaint is barred from recovery of damages based on the doctrine of laches.

SECOND DEFENSE

Plaintiff's complaint is barred from recovery of damages based on the doctrine of waiver/estoppel.

THIRD DEFENSE

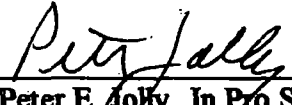
Plaintiff's complaint is barred from recovery of damages based on the Plaintiff's failure to state facts sufficient to state a cause of action against Defendant, Jolly.

WHEREFORE, this Defendant, Peter Jolly individually respectfully pray the Court for a Judgment as follows:

1. The Plaintiff's Complaint be dismissed with prejudice and that the Plaintiff take nothing by way of its Complaint;
2. That Plaintiff provide attorney's fees and costs to Defendant necessitated by defense of this action;
3. For other and such further relief as this Honorable Court may deem appropriate.

This the 13 day of May, 1996.

By


Peter E. Jolly, In Pro Se
2600 Windsor Ave.
Owensboro, Kentucky 42301
Telephone: (800) 995-7797

Certificate of Service

This is to certify that a true and correct copy of the foregoing Answer was this day served upon the Honorable Regina S. Edwards, U.S. Attorney's Office, 510 W. Broadway, 10th Floor, Louisville, Kentucky 40202, attorney for Plaintiff; John McCarty attorney for Defendant Jaf Oil Company, Inc. P.O.Box 189 Hawesville, Kentucky 42348; Robert A. Kaplan, Trial Attorney, Environmental Enforcement Section, Environment and Natural Resources Division, P.O. Box 7611, Washington, D.C. 2004407611; and Melissa Allen Heath, Esq., Assistant Regional Counsel, U.S. Environmental Protection Agency, 345 Courtland Street, N.E. , Atlanta, Georgia 30365; on this 13 day of May, 1996.



Peter E. Jolly

APPENDIX

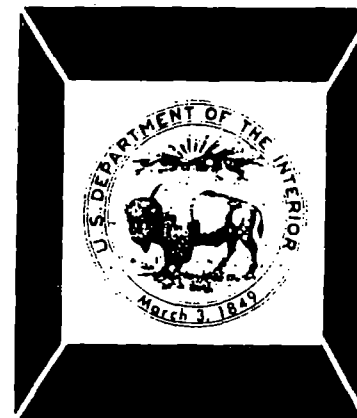
**GOVERNMENT ENVIRONMENT HYDROLOGY
TESTS FOR HANCOCK COUNTY AREA WATER WELLS
INDICATING WATER UNFIT FOR HUMAN CONSUMPTION**

**ROGER BASINGER
ENVIRONMENTALIST REGISTERED SANITARIAN
GREEN RIVER DISTRICT HEALTH DEPARTMENT
HANCOCK COUNTY, KENTUCKY**

**DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY
DONALD C. HANEY
DIRECTOR AND STATE GEOLOGIST
A COMPILATION OF GROUND WATER QUALITY
DATA FOR KENTUCKY**

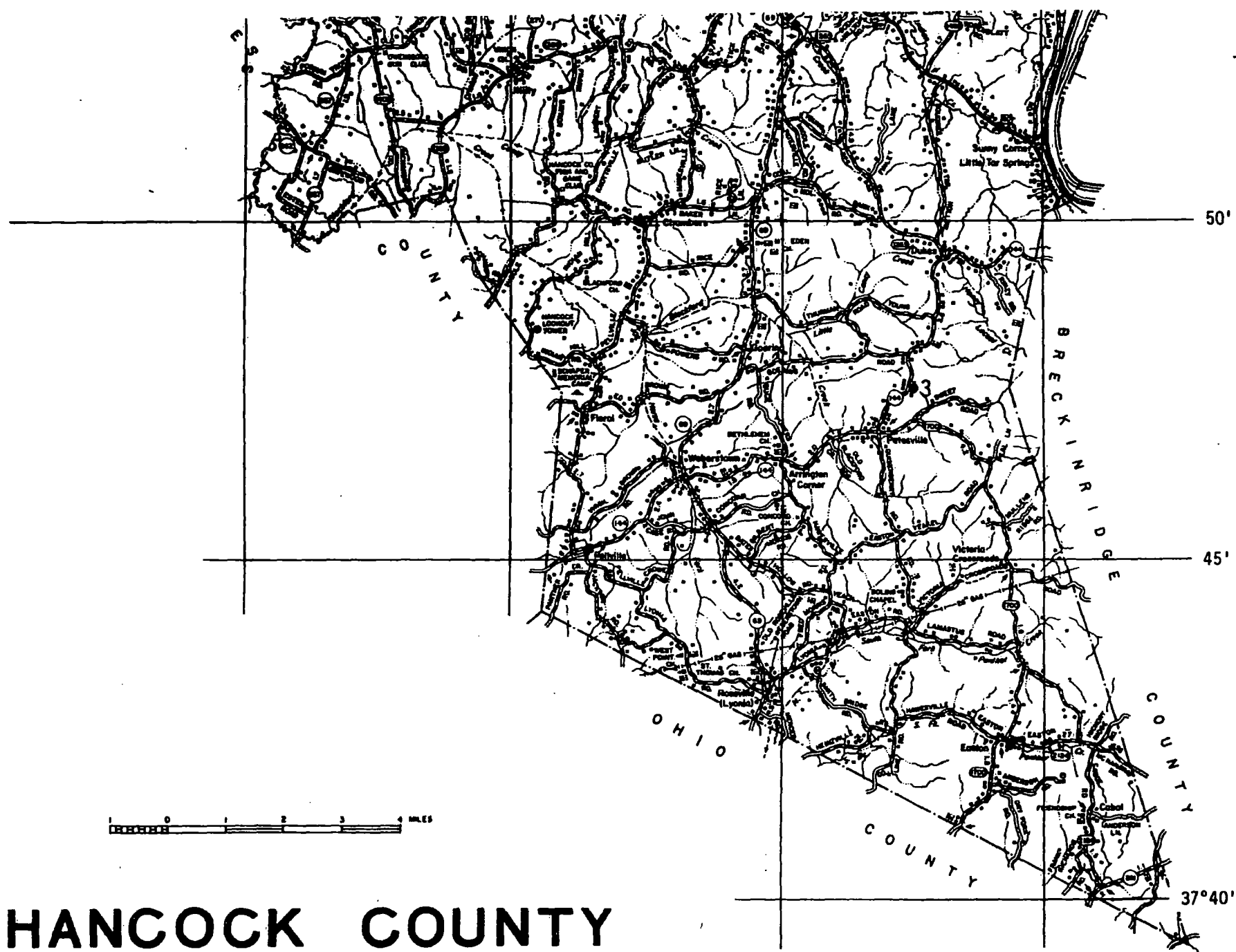
A COMPILATION OF GROUND WATER QUALITY DATA FOR KENTUCKY

U.S. GEOLOGICAL SURVEY



Prepared in cooperation with
KENTUCKY GEOLOGICAL SURVEY
Donald C. Haney, Director and State Geologist
UNIVERSITY OF KENTUCKY

**Open-File
Report
80-685**



HANCOCK COUNTY

MAP NO.	STATION NUMBER	LOCAL IDENT- IFIER	DATE OF SAMPLE	GEO- LOGIC UNIT	ELEV. OF LAND SURFACE DATUM (FT. NGVD) (72000)	DEPTH OF WELL, TOTAL (FEET) (72008)	DEPTH TO TOP OF SAMPLE INTER- VAL (FT) (72015)	DEPTH TO BOT- TOM OF SAMPLE INTER- VAL (FT) (72016)	DENSITY (GM/ML AT 20 C) (71820)	PH (UNITS) (00400)
1.	374221086404701	J. EASTON	54-05-05	332CSTR	--	41	--	--	--	--
2.	374512086483501	J. STEVENS	54-05-05	324TRDR	--	77	--	77	--	--
3.	374734086423001	R. ASHWORTH	54-05-06	324CSVL	--	60	--	--	--	--
4.	375002086473301	A. SHAFER	54-05-07	324TRDR	--	86	--	--	--	--
5.	375051086531701	W. MOORE	54-05-12	324TRDR	--	110	--	110	--	--
6.	375124086405001	E. HENNING	54-05-07	332TSPG	--	55	--	55	--	5.9
7.	375257086444501	W. HENDRICK	54-05-07	324CSVL	--	47	--	--	--	6.7
8.	375327086402401	A. SHEARN	55-08-25	1120TSH	--	37	--	--	--	7.4
9.	375328086402401	A. SHEARN	54-05-04	1120TSH	--	37	--	37	--	--
10.	375332086395401	A. SHEARN	55-08-24	1120TSH	--	80	--	--	--	6.8
11.	375333086412101	M. EWBANKS	55-08-24	1120TSH	--	56	--	--	--	7.2
12.	375334086414001	W. KRAFT PAPER CO.	66-03-28	1120RLT	410.00	103	--	--	--	6.9
13.	375334086534801	S. BAKER	54-07-20	324TRDR	425.00	109	--	109	--	7.4
14.	375343086413701	WEST COR CORP.	66-06-22	1120RLT	420.00	113	--	113	--	7.8
			68-05-24	1120RLT	420.00	113	--	113	--	7.2
15.	375349086401501	B.C. RUSSELBURG	55-08-01	111ALVM	--	60	--	--	--	7.1
16.	375350086402001	C. IRELAND	55-08-25	1120TSH	--	92	--	--	--	7.1
17.	375353086403101	B. IRELAND	55-08-25	1120TSH	--	70	--	--	--	7.1
18.	375406086444901	H. HINES	51-10-05	1120TSH	--	110	--	110	--	7.5
			56-04-30	1120TSH	--	110	--	--	--	6.9
			58-03-05	1120TSH	--	110	--	90	--	7.6
19.	375424086564101	ZOGG OIL CO.	70-10-11	332BTHL	--	--	--	1010	--	7.4
			70-10-19	332BTHL	--	--	--	900	1.035	7.0
20.	375452086465901	R. BANKS	55-08-31	1120TSH	405.00	56	--	56	--	7.4
21.	375546086465801	E. SALMS	55-08-31	1120TSH	390.00	65	--	65	--	7.0
22.	375551086462601	E. SALMS	55-08-31	1120TSH	--	65	--	65	--	8.2
23.	375602086472401	C. JENNINGS	55-08-31	1120TSH	--	49	--	49	--	5.8
24.	375604086472701	C. JENNINGS	55-08-31	1120TSH	395.00	65	--	65	--	7.0
25.	375612086535801	CITY OF LEWISPORT	58-03-05	1120TSH	395.00	83	--	83	--	7.6
26.	375613086535701	MUNICIPAL	51-10-05	1120TSH	395.00	83	--	83	--	7.5
27.	375614086464001	H. MASON	55-08-31	1120TSH	410.00	89	--	89	--	7.4
28.	375620086515501	H. THRASHER	55-09-09	320PSLV	--	150	--	150	--	7.5
29.	375646086465901	J. BEAUCHAMP	55-08-31	1120TSH	395.00	84	--	84	--	7.2
30.	375704086510801	W. KIRKPATRICK	55-09-08	1120TSH	425.00	65	--	65	--	6.9
31.	375713086471301	S. SWITZER	55-09-01	1120TSH	403.00	45	--	45	--	7.2
32.	375725086521001	HARVEY ALUMINUM CO.	68-05-24	111ALVM	--	--	--	--	--	7.6
33.	375736086515201	J. SIPAS	55-09-09	1120TSH	400.00	74	--	70	--	7.2
34.	375738086512301	H. HUBBARD	55-09-07	1120TSH	--	55	--	55	--	6.4
35.	375811086485601	C. HENNING	55-09-01	1120TSH	403.00	56	--	56	--	7.0
36.	375835086475401	J. MCKINNEY	55-09-01	1120TSH	405.00	69	--	69	--	7.2

HANCOCK COUNTY

[illegible]

HANCOCK COUNTY

DATE OF SAMPLE	SULFATE DIS- SOLVED (MG/L AS SO4) (00945)	CHLO- RIDE, DIS- SOLVED (MG/L AS CL) (00940)	FLUO- RIDE, DIS- SOLVED (MG/L AS F) (00950)	IODIDE, DIS- SOLVED (MG/L AS I) (71865)	BROMIDE DIS- SOLVED (MG/L AS BR) (71870)	NITRO- GEN, NITRATE DIS- SOLVED (MG/L AS NO3) (71851)	NITRO- GEN, NITRATE DIS- SOLVED (MG/L AS N) (00618)	PHOS- PHORUS, TOTAL (MG/L AS P) (00665)	SOLIDS, RESIDUE AT 180 DEG. C DIS- SOLVED (MG/L) (70300)	HARD- NESS (MG/L AS CACO3) (00900)	HARD- NESS, NONCAR- BONATE (MG/L CACO3) (00902)	SPE- CIFIC CON- DUCT- ANCE (MICRO- MHOS) (00095)
54-05-05	23	7.0	.1	--	--	.10	--	--	--	224	--	465
54-05-05	233	6.5	.1	--	--	.50	--	--	--	460	--	992
54-05-06	693	188	.2	--	--	35	--	--	--	1072	--	2410
54-05-07	5.6	6.2	.1	--	--	1.9	--	--	--	49	--	161
54-05-12	3.1	30	.8	--	--	.20	--	--	--	91	--	844
54-05-07	.2	11	.1	--	--	.10	--	--	66	34	3	96
54-05-07	40	6.5	.1	--	--	5.7	--	--	153	90	27	240
55-08-25	15	3.0	.2	--	--	4.9	--	--	--	190	5	375
54-05-04	8.2	3.8	.2	--	--	6.7	--	--	--	193	--	392
55-08-24	4.1	4.0	.2	--	--	.30	--	--	--	212	0	432
55-08-24	37	2.0	.2	--	--	9.6	--	--	--	283	37	533
66-03-28	17	5.0	.2	--	--	2.5	--	--	--	124	19	291
54-07-20	.2	64	.9	--	--	1.5	--	--	--	138	--	997
66-06-22	17	4.5	--	--	--	1.6	--	--	166	134	20	250
68-05-24	14	8.0	.2	--	--	16	--	--	253	224	28	435
55-08-01	22	7.0	.2	--	--	--	--	--	--	286	40	586
55-08-25	28	6.0	.1	--	--	31	--	--	--	291	32	569
55-08-25	20	16	.2	--	--	16	--	--	--	350	50	670
51-10-05	155	48	.3	--	--	7.6	--	--	648	458	144	976
56-04-30	91	150	.3	--	--	--	--	--	754	275	172	--
58-03-05	94	114	.6	--	--	7.4	--	--	--	422	142	1020
70-10-11	560	31000	2.2	8.0	64	--	--	--	54900	5900	5800	65600
70-10-19	41	29000	1.9	6.3	61	--	--	--	51500	4600	4400	64700
55-08-31	26	3.6	.2	--	--	4.4	--	--	--	208	10	426
55-08-31	13	2.2	.3	--	--	9.9	--	--	--	132	22	324
55-08-31	18	2.7	.1	--	--	4.1	--	--	--	259	17	469
55-08-31	21	3.6	.1	--	--	15	--	--	--	57	31	155
55-08-31	26	4.1	.2	--	--	.60	--	--	--	207	27	401
58-03-05	45	10	.2	--	--	7.8	--	--	364	307	32	610
51-10-05	46	12	.2	--	--	4.9	--	--	410	366	45	660
55-08-31	15	2.9	.2	--	--	6.3	--	--	--	270	20	502
55-09-09	2.5	3.1	.0	--	--	5.2	--	--	--	424	0	804
55-08-31	20	5.0	.2	--	--	5.9	--	--	--	272	23	521
55-09-08	8.4	6.4	.2	--	--	1.0	--	--	--	344	10	621
55-09-01	19	11	.1	--	--	15	--	--	--	270	22	557
68-05-24	47	16	.1	--	--	5.1	--	--	262	197	50	428
55-09-09	17	7.0	.0	--	--	13	--	--	--	317	29	603
55-09-07	18	4.8	.1	--	--	12	--	--	--	119	23	261
55-09-01	124	102	.2	--	--	160	--	--	--	577	244	1350
55-09-01	18	4.6	.1	--	--	7.7	--	--	--	240	17	473

Water Sample of : Name: See list attached

Telephone #: 927-8804

Date Reported: 05-22-95

Address & Place Sample is from: Cabot/Easton (ms)

Reported
05-22-95
RCB

EXPLANATION OF TEST RESULTS

Test

Cabot Area Test Results

2



Negative for Coliform Organisms

Indicates that the test sample result was shown to be free of any harmful bacterial contaminants (coliform).

Water considered safe for consumption.

1



Confluent Growth:

Indicates that the test sample result contained various forms of bacterial growth but no coliform.

Water safe for consumption, but water treatment still recommended.



Too Numerous to Count:

Indicates that the test sample result shows various forms of bacterial growth in large uncountable colonies. Coliform organisms, if any, were not able to be detected.

Not considered safe for consumption, water treatment recommended.

13



Coliform Organisms Present:

Indicates that the test sample result definitely showed the presence of coliform bacteria which is considered to be a harmful bacteria contaminant in the water supply.

Not considered safe for consumption, water treatment strongly recommended.

Should your water sample results show bacteria contamination please feel free to call the Health Center Office at: (502) 927-8803. We will be happy to help with information regarding treatment and a re-test of your water system.

Suggest:

Boil all drinking water 20 min.
and store in clean container!

Roy C Basinger
Sincerely,
927-8804
927-8803
HANCOCK COUNTY HEALTH DEPT
HARTSFIELD, VA

WATER BACTERIOLOGICAL ANALYSIS REPORT

MAY 19 1995

Authorized Collector _____

(Signature and Title)

San. No.

01408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

050995 0945 51095 800

Where sample was taken:

1)

Shannon Seaton

2) Address:

Frank Richland Rd

3) City:

Fordsville Ky 40343

Water Identification Number:

146-0509-95(91)

County:

HARRIS

Phone:

216-3234

Chlorine Residual at Collection: ppm

Total

ppm

Free

ph of sample

Temperature of Sample

Preservative Used

Collector's
Remarks:

GRAND

Pond water

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

☐ Doctor's Request

☐ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

Child Home

☐ Swimming

Pool

☒ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☒ Impounded

☐ Spring

☐ Cistern

☒ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Results

and

Remarks

Membrane Filter Procedures

☐ Negative for Coliform Organisms

☒ Confluent Growth

☐ Too Numerous to Count

☒ Coliform Organisms Present

☐ Coliforms/100 ml.

☒ E. coli present

☐ E. coli not present

Initial Analyst

Date & Time 5-10-95 9:47

Final Analyst

Date & Time 5-11-95 9:47

Fecal Coliforms per 100 ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Coliform Verification

Colonies

Verified

24 h.

LST

48 h.

24 h.

BGLB

48 h.

KS/100

12

12

Initial Analyst

Date & Time 5-11-95

Final Analyst

Date & Time 5-13-95

Amount Filtered

100

Most Probable Number Method

Total Coliforms
per 100 ml.

Fecal
Coliforms
per 100 ml

(Completed)
Initial Analyst
Date & Time

Final Analyst
Date & Time

Heterotrophic Plate Count

Dilution
Read

Count

Plate Count/ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Other Test Results:

WATER BACTERIOLOGICAL ANALYSIS REPORT

MAY 19 1995

Authorized Collector _____

(Signature and Title)

San. No.

311408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

05 09 95

08 15

5 10 95

800

Where sample was taken:

1)

Mumma Merrill

2) Address:

13750 Eastern Parkway

3) City:

Fordsville Ky 42343

Water Identification Number:

146-0509-95 (1)

County:

HAWCOCK

Phone:

276-5095

Chlorine Residual at Collection: ppm

Total

ppm

Free

ph of sample

Temperature of Sample

Preservative Used

Collector's
Remarks:

GRADD

Spring

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

☒ Doctor's Request

☐ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

Child Home

☐ Swimming

Pool

☒ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☐ Impounded

☒ Spring

☐ Cistern

☐ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Membrane Filter Procedures

Results

and

Remarks

☒ Negative for Coliform Organisms

☐ Confluent Growth

☐ Too Numerous to Count

☐ Coliform Organisms Present

☐ Coliforms/100 ml.

☐ E. coli present

☐ E. coli not present

Initial Analyst

Date & Time 5-10-95 9A

Final Analyst

Date & Time 5-11-95 9A

Fecal Coliforms per 100 ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Coliform Verification

Colonies

Verified

LST

24 h.

48 h.

BGLB

24 h.

48 h.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Amount Filtered

100

Most Probable Number Method

Total Coliforms
per 100 ml.

Fecal

Coliforms
per 100 ml

(Completed)

Initial Analyst

Date & Time

Final Analyst

Date & Time

Heterotrophic Plate Count

Dilution
Read

Count

Plate Count/ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Other Test Results:

WATER BACTERIOLOGICAL ANALYSIS REPORT

MAY 19 1995

Authorized Collector _____

(Signature and Title)

San. No.

61408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

5/10/95

1130

5/10/95

800

Where sample was taken:

1) E J Canyon

2) Address: 2825 Cabot Easton Rd

3) City: Fordsville Ky 40343

Water Identification Number: 146-0509-95 F/5

County: HANCOCK

Phone: 276-5530

Chlorine Residual at Collection: ppm

Total

ppm

Free

ph of sample

Temperature of Sample

Preservative Used

Collector's
Remarks:

Pond Water / GRAD

☐ Public

☐ Semi-Public

☐ Private

Check Appropriate Boxes

☒ Doctor's Request

☒ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

Child Home

☐ Swimming

☐ Pool

☐ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☐ Impounded

☒ Spring

☐ Cistern

☐ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Membrane Filter Procedures

Results

and

Remarks

☒ Negative for Coliform Organisms

☐ Confluent Growth

☐ Too Numerous to Count

☐ Coliform Organisms Present

☐ Coliforms/100 ml.

☐ E. coli present

☐ E. coli not present

Initial Analyst

Date & Time 5-11-95 9AM

Final Analyst

Date & Time 5-11-95 9AM

Fecal Coliforms per 100 ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Coliform Verification

Colonies

Verified

LST

24 h.

48 h.

BGLB

24 h.

48 h.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Amount Filtered

100

Most Probable Number Method

Total Coliforms
per 100 ml.

Fecal

Coliforms
per 100 ml

(Completed)

Initial Analyst

Date & Time

Final Analyst

Date & Time

Heterotrophic Plate Count

Dilution
Read

Count

Plate Count/ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Other Test Results:

WATER BACTERIOLOGICAL ANALYSIS REPORT

Authorized Collector _____

(Signature and Title)

San. No.

31408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

050995

1015

51095

800

Where sample was taken:

1) Cabot Church (MSM)

2) Address: Cabot Easton Rd

3) City: Fordsville Ark 2343

Water Identification Number: 146-0509-95/12

County: HANCOCK

Phone: 276-3000

Chlorine Residual at Collection: ppm

Total

ppm

Free

ph of sample

Temperature of Sample

Preservative Used

Collector's
Remarks:

Dry well / GRAD

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

☒ Doctor's Request

☐ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

☐ Child Home

☐ Swimming

☐ Pool

☒ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☐ Impounded

☐ Spring

☐ Cistern

☒ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Membrane Filter Procedures
Results and Remarks: ☐ Negative for Coliform Organisms

☒ Confluent Growth

☐ Too Numerous to Count

☒ Coliform Organisms Present

☐ Coliforms/100 ml.

☒ E. coli present

☐ E. coli not present

Initial Analyst
Date & Time

RW

5-10-95 9A

Final Analyst
Date & Time

KG

5-11-95 9AM

Fecal Coliforms per 100 ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Fecal Streptococcus per 100 ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Most Probable Number Method

Total Coliforms
per 100 ml.

Fecal
Coliforms
per 100 ml

(Completed)

Initial Analyst
Date & Time

Final Analyst
Date & Time

Heterotrophic Plate Count

Dilution
Read

Count

Plate Count/ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Other Test Results:

Amount Filtered 100

Coliform Verification

Colonies
Verified

24 h.

LST

48 h.

24 h.

BGLB

48 h.

Initial Analyst
Date & Time

5-11-95

Final Analyst
Date & Time

5-13-95

WATER BACTERIOLOGICAL ANALYSIS REPORT

MAY 19 1995

Authorized Collector Roger D. Baan, Jr. (Signature and Title) San. No. 61408

Sample Collection Date 05/09/95 Sample Time 1810 Date Laboratory Rec'd 05/11/95 Time Received 9 am Sample No. Sample Seq. No.

Where sample was taken:
1) James Hazelwood
2) Address: Palmer Station Rd
3) City: Fordsville Ky 40342
Water Identification Number: 146-0510-95 (b)
County: HANCOCK
Phone: 276-5688
Chlorine Residual at Collection: ppm Total ppm Free
ph of sample Temperature of Sample Preservative Used

Collector's Remarks: Dry Well / GRAD

<input type="checkbox"/> Public <input type="checkbox"/> Semi-Public <input checked="" type="checkbox"/> Private	Check Appropriate Boxes <input checked="" type="checkbox"/> Doctor's Request <input type="checkbox"/> Radiation <input type="checkbox"/> Milk Program <input type="checkbox"/> FHA-VA <input type="checkbox"/> Adoptive Child Home <input type="checkbox"/> Swimming Pool <input type="checkbox"/> Water <input type="checkbox"/> Resample <input type="checkbox"/> Other: <u> </u>	Source of Sample <input type="checkbox"/> Stream <input type="checkbox"/> Impounded <input type="checkbox"/> Spring <input type="checkbox"/> Cistern <input checked="" type="checkbox"/> Well <input type="checkbox"/> Other	Specimen Unsatisfactory (Submit another sample) <input type="checkbox"/> Broken - Leaked <input type="checkbox"/> Sample not dated <input type="checkbox"/> Insufficient quantity <input type="checkbox"/> Received later than 48 hours after collection <input type="checkbox"/> Not authorized collector
--	--	---	---

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Membrane Filter Procedures Results and Remarks: <input type="checkbox"/> Negative for Coliform Organisms <input checked="" type="checkbox"/> Confluent Growth <input type="checkbox"/> Too Numerous to Count <input checked="" type="checkbox"/> Coliform Organisms Present <input type="checkbox"/> Coliforms/100 ml. <u> </u> <input checked="" type="checkbox"/> E. coli present <input type="checkbox"/> E. coli not present Initial Analyst Date & Time <u>5-11-95</u> Final Analyst Date & Time <u>5-12-95</u> Fecal Coliforms per 100 ml. <u> </u> Initial Analyst Date & Time <u> </u> Final Analyst Date & Time <u> </u>	Coliform Verification # Colonies Verified <u>100</u> LST 24 h. <u> </u> 48 h. <u> </u> BGLB 24 h. <u> </u> 48 h. <u> </u> Initial Analyst Date & Time <u>5-12-95</u> Final Analyst Date & Time <u>5-14-95</u> Amount Filtered <u>100 ml</u> Fecal Streptococcus per 100 ml. <u> </u> Initial Analyst Date & Time <u> </u> Final Analyst Date & Time <u> </u>
--	---

Most Probable Number Method Total Coliforms per 100 ml. <u> </u> Fecal Coliforms per 100 ml. <u> </u> (Completed) Initial Analyst Date & Time <u> </u> Final Analyst Date & Time <u> </u>	Heterotrophic Plate Count Dilution Read <u> </u> Count <u> </u> Plate Count/ml. <u> </u> Initial Analyst Date & Time <u> </u> Final Analyst Date & Time <u> </u>
---	--

Other Test Results:

MAY 19 1995

WATER BACTERIOLOGICAL ANALYSIS REPORT

Authorized Collector

(Signature and Title)

San. No.

01408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

05/09/95 0825 5/10/95 800

Where sample was taken:

1) Jesse Myers
2) Address: 3305 CABOT EASTON RD
3) City: Fordsville Ky 42348

Water Identification Number: 146-0509-95(2)
County: Hancock
Phone: 276-3222

Chlorine Residual at Collection: ppm Total ppm Free
ph of sample Temperature of Sample Preservative Used

Collector's
Remarks:

53' deep well (DRY WELL in Summer)

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

☒ Doctor's Request

☐ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

Child Home

☐ Swimming

Pool

☐ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☐ Impounded

☐ Spring

☐ Cistern

☒ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Results

and

Remarks

Membrane Filter Procedures

☐ Negative for Coliform Organisms

☒ Confluent Growth

☐ Too Numerous to Count

☒ Coliform Organisms Present

Coliforms/100 ml.

☐ E. coli present

☒ E. coli not present

Initial Analyst Date & Time Final Analyst Date & Time

Fecal Coliforms per 100 ml.

Initial Analyst Date & Time Final Analyst Date & Time

Coliform Verification

Colonies Verified

LST 24 h. 48 h. BGLB 24 h. 48 h.

Initial Analyst Date & Time

Final Analyst Date & Time

Amount Filtered 100

Most Probable Number Method

Total Coliforms per 100 ml.

Fecal Coliforms per 100 ml

(Completed)
Initial Analyst Date & Time

Final Analyst Date & Time

Heterotrophic Plate Count

Dilution Read

Count

Plate Count/ml.

Initial Analyst Date & Time

Final Analyst Date & Time

Other Test Results:

MAY 15 1995

13 5

WATER BACTERIOLOGICAL ANALYSIS REPORT

Authorized Collector Amer C. Savage
(Signature and Title)

San. No.

61403

Sample Collection Date 1/5/95 Sample Time 0930 Date Laboratory Rec'd 5/10/95 Time Received 800 Sample No. Sample Seq. No.

Where sample was taken:

1) Lonnie Seaton
2) Address: 3390 Pabot Eastern Rd
3) City: Fordsville Ky 42343

Water Identification Number: 46-0509-9516
County: HANCOCK
Phone: None

Chlorine Residual at Collection: ppm Total ppm Free
ph of sample Temperature of Sample Preservative Used

Collector's
Remarks:

GRADU

<input type="checkbox"/> Public <input type="checkbox"/> Semi-Public <input checked="" type="checkbox"/> Private	Check Appropriate Boxes <input type="checkbox"/> Doctor's Request <input type="checkbox"/> Radiation <input type="checkbox"/> Milk Program <input checked="" type="checkbox"/> FHA-VA <input type="checkbox"/> Adoptive Child Home <input type="checkbox"/> Swimming Pool <input checked="" type="checkbox"/> Water <input type="checkbox"/> Resample <input type="checkbox"/> Other: <u> </u>	Source of Sample <input type="checkbox"/> Stream <input type="checkbox"/> Impounded <input type="checkbox"/> Spring <input type="checkbox"/> Cistern <input checked="" type="checkbox"/> Well <input type="checkbox"/> Other	Specimen Unsatisfactory (Submit another sample) <input type="checkbox"/> Broken - Leaked <input type="checkbox"/> Sample not dated <input type="checkbox"/> Insufficient quantity <input type="checkbox"/> Received later than 48 hours after collection <input type="checkbox"/> Not authorized collector
--	---	---	---

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Results and Remarks	Membrane Filter Procedures <input type="checkbox"/> Negative for Coliform Organisms <input checked="" type="checkbox"/> Confluent Growth <input type="checkbox"/> Too Numerous to Count <input checked="" type="checkbox"/> Coliform Organisms Present <input type="checkbox"/> Coliforms/100 ml. <input checked="" type="checkbox"/> E. coli present <input type="checkbox"/> E. coli not present	Coliform Verification # Colonies Verified <u>X-3/100</u> Initial Analyst Date & Time <u>5-11-95</u> Final Analyst Date & Time <u>5-13-95</u>	
	Initial Analyst <u>RW</u> Date & Time <u>5-10-95 9:27</u> Final Analyst <u>KG</u> Date & Time <u>5-11-95 9:17</u> Fecal Coliforms per 100 ml. <u> </u> Initial Analyst <u> </u> Date & Time <u> </u> Final Analyst <u> </u> Date & Time <u> </u>	LST 24 h. <u> </u> 48 h. <u> </u> BGLB 24 h. <u> </u> 48 h. <u> </u> Amount Filtered <u>100</u> Fecal Streptococcus per 100 ml. <u> </u> Initial Analyst <u> </u> Date & Time <u> </u> Final Analyst <u> </u> Date & Time <u> </u>	

Most Probable Number Method Total Coliforms per 100 ml. <u> </u> (Completed) Initial Analyst Date & Time <u> </u> Final Analyst Date & Time <u> </u>	Heterotrophic Plate Count Dilution Read <u> </u> Count <u> </u> Plate Count/ml. <u> </u> Initial Analyst Date & Time <u> </u> Final Analyst Date & Time <u> </u>
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Other Test Results:

MAY 19 1995

WATER BACTERIOLOGICAL ANALYSIS REPORT

Authorized Collector

(Signature and Title)

San. No.

61408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

050995

1010

51095

800

Where sample was taken:

- 1) Sylvia Woodman
2) Address: Box 2885 Cabot Easton Rd
3) City: Fordsville Ky 42343

Water Identification Number: 146-0509-95(11)
County: Hancock
Phone: 276-9540

Chlorine Residual at Collection: ppm
ph of sample

Total
Temperature of Sample

ppm

Free

Preservative Used

Collector's
Remarks:

Dry well at Times (GRAND)

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

- ☐ Doctor's Request
☒ Radiation
☐ Milk Program
☐ FHA-VA
☐ Adoptive Child Home

- ☐ Swimming Pool
☐ Water
☐ Resample
☐ Other:

Source of Sample

- ☐ Stream
☐ Impounded
☐ Spring
☐ Cistern
☒ Well
☐ Other

Specimen Unsatisfactory
(Submit another sample)

- ☐ Broken - Leaked
☐ Sample not dated
☐ Insufficient quantity
☐ Received later than 48 hours after collection
☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Membrane Filter Procedures
Results and Remarks
☐ Negative for Coliform Organisms
☒ Confluent Growth
☐ Too Numerous to Count
☒ Coliform Organisms Present
☐ Coliforms/100 ml.
☐ E. coli present
☒ E. coli not present

Initial Analyst
Date & Time 5-10-95 9A

Final Analyst
Date & Time 5-11-95 9A

Fecal Coliforms per 100 ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Coliform Verification
Colonies Verified
LST 24 h. 48 h.
BGLB 24 h. 48 h.
Initial Analyst
Date & Time 5-11-95
Final Analyst
Date & Time 5-13-95

Amount Filtered 100

Most Probable Number Method

Total Coliforms per 100 ml.

Fecal Coliforms per 100 ml

(Completed)
Initial Analyst
Date & Time

Final Analyst
Date & Time

Heterotrophic Plate Count

Dilution Read

Count

Plate Count/ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Other Test Results:

WATER BACTERIOLOGICAL ANALYSIS REPORT

4328
MAY 19 1995
San. No. 31408

Authorized Collector _____

(Signature and Title)

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

50995

1015

5/10/95

800

Where sample was taken:

1) Loss Richard

2) Address: Cabot Carter Rd

3) City: Fordville KY 2343

Water Identification Number: 146-0509-931

County: HANCOCK

Phone: N/A

Chlorine Residual at Collection: ppm _____

Total

ppm _____

Free

ph of sample _____

Temperature of Sample _____

Preservative Used _____

Collector's
Remarks:

IRY WRD / GRAD

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

☒ Doctor's Request

☐ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

☐ Child Home

☐ Swimming

☐ Pool

☐ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☐ Impounded

☐ Spring

☐ Cistern

☒ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

☐ after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Results

and

Remarks

Membrane Filter Procedures

☐ Negative for Coliform Organisms

☐ Confluent Growth

☒ Too Numerous to Count

☒ Coliform Organisms Present

☐ Coliforms/100 ml.

☒ E. coli present

☐ E. coli not present

Initial Analyst

Date & Time 5-10-95

Final Analyst

Date & Time 5-11-95

Fecal Coliforms per 100 ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Colonies

Verified

1-2/100

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

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5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

5-10-95

Coliform Verification

LST

24 h.

48 h.

BGLB

24 h.

48 h.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Amount Filtered

100

Total Coliforms

per 100 ml.

Fecal

Coliforms

per 100 ml.

(Completed)

Initial Analyst

Date & Time

Final Analyst

Date & Time

Dilution

Read

Count

Plate Count/ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Other Test Results:

WATER BACTERIOLOGICAL ANALYSIS REPORT

17 MAY 19 1995

Authorized Collector _____

(Signature and Title)

San. No.

61408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

05/09/95 1025 5/10/95 800

Where sample was taken:

- 1) Marion Smith
2) Address: 3155 Cabot Easton Rd
3) City: Fordsville KY 40343

Water Identification Number: 146-050995A
County: Hancock
Phone: 274-3000

Chlorine Residual at Collection: ppm _____

Total

ppm _____

Free

ph of sample _____

Temperature of Sample _____

Preservative Used _____

Collector's
Remarks:

Pond Water / GRADU

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

☒ Doctor's Request

☐ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

☐ Child Home

☐ Swimming

☐ Pool

☐ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☒ Impounded

☐ Spring

☐ Cistern

☐ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

☐ after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Results
and
Remarks

Membrane Filter Procedures

☐ Negative for Coliform Organisms

☒ Confluent Growth

☐ Too Numerous to Count

☒ Coliform Organisms Present

☐ Coliforms/100 ml.

☒ E. coli present

☐ E. coli not present

Initial Analyst

Date & Time 5-10-95 9AM

Final Analyst

Date & Time 5-11-95 9AM

Fecal Coliforms per 100 ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Coliform Verification

Colonies
Verified

LST

24 h.

48 h.

BGLB

24 h.

48 h.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Amount Filtered

100

Total Coliforms
per 100 ml.

Fecal
Coliforms
per 100 ml

(Completed)

Initial Analyst

Date & Time

Final Analyst

Date & Time

Heterotrophic Plate Count

Dilution
Read

Count

Plate Count/ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Other Test Results:

MAY 19 1995

WATER BACTERIOLOGICAL ANALYSIS REPORT

Authorized Collector _____

(Signature and Title)

San. No.

61408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

050995

0900

51095

800

Where sample was taken:

- 1) Ray Richards
2) Address: Frank Richards Rd.
3) City: Fordsville KY 42343

Water Identification Number: 146-0509-95(3)

County: HAN COCK

Phone: 276-5316

Chlorine Residual at Collection: ppm _____

Total

ppm _____

Free

ph of sample _____

Temperature of Sample _____

Preservative Used _____

Collector's
Remarks: Spring

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

☒ Doctor's Request

☐ Radiation

☐ Milk Program

☒ EHA-VA

☐ Adoptive

☐ Child Home

☐ Swimming

☐ Pool

☒ Water

☐ Resample

☐ Other: _____

Source of Sample

☐ Stream

☐ Impounded

☒ Spring

☐ Cistern

☐ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

☐ after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Membrane Filter Procedures

Results

☐ Negative for Coliform Organisms

and

☐ Confluent Growth

Remarks

☒ Too Numerous to Count

☒ Coliform Organisms Present

☐ Coliforms/100 ml.

☐ E. coli present

☒ E. coli not present

Initial Analyst RW

Date & Time 5-10-95

Final Analyst HC

Date & Time 5-11-95

Fecal Coliforms per 100 ml. _____

Initial Analyst _____

Date & Time _____

Final Analyst _____

Date & Time _____

Coliform Verification

Colonies

Verified

24 h.

LST

48 h.

BGLB

24 h.

48 h.

X-5 ml

10

10

10

Initial Analyst 9/11/95

Date & Time 5-11-95

Final Analyst 9/13/95

Date & Time 5-13-95

Amount Filtered 100

Most Probable Number Method

Total Coliforms
per 100 ml. _____

Fecal

Coliforms
per 100 ml. _____

(Completed)

Initial Analyst _____

Date & Time _____

Final Analyst _____

Date & Time _____

Heterotrophic Plate Count

Dilution
Read _____

Count _____

Plate Count/ml. _____

Initial Analyst _____

Date & Time _____

Final Analyst _____

Date & Time _____

Other Test Results:

MAY 19 1995

WATER BACTERIOLOGICAL ANALYSIS REPORT

Authorized Collector Joseph E. Davis Jr. / RS
(Signature and Title)

San. No.

61408

Sample Collection Date 050995 Sample Time 0910 Date Laboratory Rec'd 51095 Time Received 800 Sample No. Sample Seq. No.

Where sample was taken:

1) Gladys Richards
2) Address: Frank Richards Rd
3) City: Fordsville Ky 42343

Water Identification Number: 146-0509-95 (4)
County: HANCOCK
Phone: NONE

Chlorine Residual at Collection: ppm Total ppm Free
ph of sample Temperature of Sample Preservative Used

Collector's Remarks: GRAD (Family Spring)

<input type="checkbox"/> Public <input type="checkbox"/> Semi-Public <input checked="" type="checkbox"/> Private	Check Appropriate Boxes <input type="checkbox"/> Doctor's Request <input checked="" type="checkbox"/> Radiation <input type="checkbox"/> Milk Program <input type="checkbox"/> FHA-VA <input type="checkbox"/> Adoptive Child Home <input type="checkbox"/> Swimming Pool <input checked="" type="checkbox"/> Water <input type="checkbox"/> Resample <input type="checkbox"/> Other:	Source of Sample <input type="checkbox"/> Stream <input type="checkbox"/> Impounded <input checked="" type="checkbox"/> Spring <input type="checkbox"/> Cistern <input type="checkbox"/> Well <input type="checkbox"/> Other	Specimen Unsatisfactory (Submit another sample) <input type="checkbox"/> Broken - Leaked <input type="checkbox"/> Sample not dated <input type="checkbox"/> Insufficient quantity <input type="checkbox"/> Received later than 48 hours after collection <input type="checkbox"/> Not authorized collector
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☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Membrane Filter Procedures Results and Remarks <input type="checkbox"/> Negative for Coliform Organisms <input type="checkbox"/> Confluent Growth <input checked="" type="checkbox"/> Too Numerous to Count <input checked="" type="checkbox"/> Coliform Organisms Present <input type="checkbox"/> Coliforms/100 ml. <input type="checkbox"/> E. coli present <input checked="" type="checkbox"/> E. coli not present Initial Analyst <u> </u> Final Analyst <u>K6</u> Date & Time <u>5-10-95 9:10</u> Date & Time <u>5-11-95 9:10</u> Fecal Coliforms per 100 ml. <u> </u> Initial Analyst <u> </u> Final Analyst <u> </u> Date & Time <u> </u> Date & Time <u> </u>	Coliform Verification # Colonies Verified <u>X-54 PAK</u> LST 24 h. <u> </u> 48 h. <u> </u> BGLB 24 h. <u> </u> 48 h. <u> </u> Initial Analyst <u>900m</u> Final Analyst <u> </u> Date & Time <u>3-11-95</u> Date & Time <u>3-13-95</u> Amount Filtered <u>100</u> Fecal Streptococcus per 100 ml. <u> </u> Initial Analyst <u> </u> Final Analyst <u> </u> Date & Time <u> </u> Date & Time <u> </u>
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Most Probable Number Method Total Coliforms per 100 ml. <u> </u> Fecal Coliforms per 100 ml. <u> </u> (Completed) Initial Analyst <u> </u> Final Analyst <u> </u> Date & Time <u> </u> Date & Time <u> </u>	Heterotrophic Plate Count Dilution Read <u> </u> Count <u> </u> Plate Count/ml. <u> </u> Initial Analyst <u> </u> Final Analyst <u> </u> Date & Time <u> </u> Date & Time <u> </u>
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Other Test Results:

WATER BACTERIOLOGICAL ANALYSIS REPORT

MAY 19 1995

Authorized Collector _____

(Signature and Title)

San. No.

61408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

050995

0935

51095

800

Where sample was taken:

1) 1000 HP (TUPSS)

2) Address: 3540 Cabot Road

3) City: Portland ME 04334

Water Identification Number: 146-0509-95(7)

County: HAMPSHIRE

Phone: 276-9870

Chlorine Residual at Collection: ppm

Total

ppm

Free

ph of sample

Temperature of Sample

Preservative Used

Collector's
Remarks:

GRADD

Pond Water

☐ Public

☐ Semi-Public

☐ Private

Check Appropriate Boxes

☐ Doctor's Request

☐ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

☐ Child Home

☐ Swimming

☐ Pool

☐ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☒ Impounded

☒ Spring

☐ Cistern

☐ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

☐ after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Results

and

Remarks

Membrane Filter Procedures

☐ Negative for Coliform Organisms

☒ Confluent Growth

☐ Too Numerous to Count

☒ Coliform Organisms Present

☐ Coliforms/100 ml.

☒ E. coli present

☐ E. coli not present

Initial Analyst

Date & Time

RW

5-10-95 9AM

Final Analyst

Date & Time

KG

5-11-95 9AM

Fecal Coliforms per 100 ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Coliform Verification

Colonies

Verified

24 h.

LST

48 h.

24 h.

BGLB

48 h.

V-STAT

100

100

Initial Analyst

Date & Time

5-11-95

9AM

Final Analyst

Date & Time

5-13-95

Amount Filtered

100

Total Coliforms
per 100 ml.

Fecal
Coliforms
per 100 ml

(Completed)

Initial Analyst

Date & Time

Final Analyst

Date & Time

Heterotrophic Plate Count

Dilution
Read

Count

Plate Count/ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Other Test Results:

4322
MAY 19 1995

WATER BACTERIOLOGICAL ANALYSIS REPORT

Authorized Collector _____

(Signature and Title)

San. No.

61408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

050995 1000 51095 800

Where sample was taken:

1) Morris Hawkins
2) Address: Frank Richards Rd
3) City: Fordsville Ky 42343

Water Identification Number: 146-0509-95 (10)
County: HANCOCK
Phone: N/A

Chlorine Residual at Collection: ppm _____

Total

ppm _____

Free

ph of sample _____

Temperature of Sample _____

Preservative Used _____

Collector's
Remarks:

Pond water / Dry well

☐ Public
☐ Semi-Public
☒ Private

Check Appropriate Boxes

☒ Doctor's Request
☐ Radiation
☐ Milk Program
☐ FHA-VA
☐ Adoptive Child Home
☐ Swimming Pool
☒ Water
☐ Resample
☐ Other:

Source of Sample

☐ Stream
☒ Impounded
☐ Spring
☐ Cistern
☐ Well
☐ Other

Specimen Unsatisfactory

(Submit another sample)
☐ Broken - Leaked
☐ Sample not dated
☐ Insufficient quantity
☐ Received later than 48 hours after collection
☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Results
and
Remarks

Membrane Filter Procedures

☐ Negative for Coliform Organisms
☒ Confluent Growth
☐ Too Numerous to Count
☒ Coliform Organisms Present
☐ Coliforms/100 ml.
☒ E. coli present
☐ E. coli not present

Initial Analyst 2W
Date & Time 5-10-95 9AM

Final Analyst K6
Date & Time 5-11-95 9AM

Fecal Coliforms per 100 ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Fecal Streptococcus per 100 ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Coliform Verification

Colonies
Verified

24 h.

LST

48 h.

24 h.

BGLB

48 h.

X-check

12

12

12

Initial Analyst
Date & Time

5-11-95 9AM

Final Analyst
Date & Time

5-11-95 9AM

Amount Filtered 100

Most Probable Number Method

Total Coliforms
per 100 ml.

Fecal
Coliforms
per 100 ml

(Completed)

Initial Analyst
Date & Time

Final Analyst
Date & Time

Heterotrophic Plate Count

Dilution
Read

Count

Plate Count/ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Other Test Results:

WATER BACTERIOLOGICAL ANALYSIS REPORT

MAY 19 1995

Authorized Collector _____

(Signature and Title)

San. No.

G1408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

050995

0920

51095

800

Where sample was taken:

1) CRA Roll Prow

2) Address: Frank Richards Rd

3) City: Fordville Ky 42343

Water Identification Number: 146-0509-95(5)

County: HANCOCK

Phone: WIA

Chlorine Residual at Collection: ppm _____

Total

ppm _____

Free

ph of sample _____

Temperature of Sample _____

Preservative Used _____

Collector's
Remarks:

CRA DD (Pamela Sperry)

☐ Public

☐ Semi-Public

☒ Private

Check Appropriate Boxes

☒ Doctor's Request

☐ Radiation

☐ Milk Program

☒ FHA-VA

☐ Adoptive

Child Home

☐ Swimming

Pool

☒ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☐ Impounded

☒ Spring

☐ Cistern

☒ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours

after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing:

Results

and

Remarks

Membrane Filter Procedures

☐ Negative for Coliform Organisms

☐ Confluent Growth

☒ Too Numerous to Count

☒ Coliform Organisms Present

☐ Coliforms/100 ml.

☐ E. coli present

☒ E. coli not present

Initial Analyst

Date & Time

Final Analyst

Date & Time

Fecal Coliforms per 100 ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Coliform Verification

Colonies

Verified

LST

24 h.

48 h.

BGLB

24 h.

48 h.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Amount Filtered

100

Most Probable Number Method

Total Coliforms
per 100 ml.

Fecal
Coliforms
per 100 ml

(Completed)

Initial Analyst

Date & Time

Final Analyst

Date & Time

Heterotrophic Plate Count

Dilution
Read

Count

Plate Count/ml.

Initial Analyst
Date & Time

Final Analyst
Date & Time

Other Test Results:

WATER BACTERIOLOGICAL ANALYSIS REPORT

21
MAY 19 REC'D
San. No.

Authorized Collector _____

(Signature and Title)

San. No. 61408

Sample Collection Date

Sample Time

Date Laboratory Rec'd

Time Received

Sample No.

Sample Seq. No.

050995

0940

51095

800

Where sample was taken:

1) Billy Spator

Water Identification Number: 146-0509-9518

2) Address:

County: Harrodsburg

3) City:

Phone: 276-9002

Fordsville Ky 42403

Chlorine Residual at Collection: ppm

Total

ppm

Free

ph of sample

Temperature of Sample

Preservative Used

Collector's
Remarks:

Hard water / GRADD

☐ Public

☐ Semi-Public

☐ Private

Check Appropriate Boxes

☒ Doctor's Request

☐ Radiation

☐ Milk Program

☐ FHA-VA

☐ Adoptive

Child Home

☐ Swimming Pool

☒ Water

☐ Resample

☐ Other:

Source of Sample

☐ Stream

☐ Impounded

☐ Spring

☐ Cistern

☒ Well

☐ Other

Specimen Unsatisfactory

(Submit another sample)

☐ Broken - Leaked

☐ Sample not dated

☐ Insufficient quantity

☐ Received later than 48 hours after collection

☐ Not authorized collector

☐ Sample was received more than 30 hours, but less than 48 hours after collection. Results may be invalid due to excessive delay before sample processing.

Results

and

Remarks

Membrane Filter Procedures

☐ Negative for Coliform Organisms

☒ Confluent Growth

☐ Too Numerous to Count

☒ Coliform Organisms Present

Coliforms/100 ml.

☒ E. coli present

☐ E. coli not present

Initial Analyst

Date & Time 5-10-95 9:27 AM

Final Analyst

Date & Time 5-11-95 9:27 AM

Fecal Coliforms per 100 ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Coliform Verification

Colonies

Verified

LST

24 h.

48 h.

BGLB

24 h.

48 h.

X-Simultaneous

POS

POS

Initial Analyst

Date & Time 5-11-95

Final Analyst

Date & Time 5-11-95

Amount Filtered

100

Most Probable Number Method

Total Coliforms per 100 ml.

Fecal

Coliforms

per 100 ml

(Completed)

Initial Analyst

Date & Time

Final Analyst

Date & Time

Heterotrophic Plate Count

Dilution Read

Count

Plate Count/ml.

Initial Analyst

Date & Time

Final Analyst

Date & Time

Other Test Results: